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MARRIAGE

WITH A

DECEASED WIFE'S SISTER OR NIECE.

In times of revolution, every thing is in danger of being overturned. Believing that the Lord reigneth, we may entertain a strong confidence that truth and righteousness shall eventually prevail. But we may tremble, nevertheless, for the immediate consequences, when we hear the rushing of the storm and the whirlwind.

Amongst those whom the revolutionary fever has infected, and that in its worst form, may be reckoned the agitators for a change in the law regarding the prohibited degrees of affinity. It is not necessary to inquire what political parties they are of. Some of them are understood to affect the designation of *Conservatives*. But, however unwittingly, they really go deeper than any class of politicians in their attempts to change and to subvert. Mere political changes, such as Radicals or even Chartists advocate, would be insignificant in comparison with the social change which they have ventured to propose. These, when contrasted with this, might almost be described as relating only to the outward framework of society. He who would force his way into every family circle, and by the efficacy of a legislative enactment alter in a moment the relations of the members of the family to one another, revolutionizing the sentiments of every little community with regard to arrangements of domestic life, hitherto frequent amongst its most honoured members; and also (if it were possible), with regard to other arrangements of domestic life, the merest allusion to which has hitherto generally been avoided as offensive, dissolving ties which were held to bind multitudes of persons in closest kindred, and removing restraints which were usually powerful enough to prevent impurity, even of thought, in the most intimate intercourse,—must be either a greater friend or a greater enemy of his country than any ordinary politician: and he who makes such an attempt, or joins in it, without the fullest investigation of all that bears upon the subject, deserves a censure more severe than that which foolishness almost ever incurs, even in those cases in which its precipitancy is regarded as partaking most largely of the character of crime.

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Great part of what has been recently written and spoken upon this subject, in this country, too plainly betrays such precipitancy. Persons of good education have given utterance to opinions which they have not shown themselves prepared to defend by any arguments of the kind really proper to the subject. It is a sort of extenuation, admissible to a certain extent in some cases, that the minds of the parties have obviously been influenced by considerations of benevolence. But benevolence itself ought to be reasonable, and is most true to itself when it refuses to be divorced from judgment. Nor did benevolent minds ever make a greater mistake than in this instance. Allowance must be made also for persons who have been misled, not merely by their own passions, but by the opinions and advices of those to whom they naturally looked for guidance and instruction, and who ought to have the more thoroughly examined this and similar questions, because cases involving it were now and then occurring within the immediate sphere of their influence. There can, however, be no doubt, that in the agitation of this question other parties have been engaged, not in general so openly perhaps, but far more influentially, whose anxiety is to relieve themselves, and others involved along with them and by them, from the painful consequences of their own crime and folly, which they are pleased to designate *hardships;* to say nothing of men anxious to secure increased facilities for the gratification of their filthy lusts, or to cover with the name of virtue the vice which they practise, who, not contented with having, in some instances at least, made their individual victims already, seek a miserable consolation for their own wretchedness in the degradation of society to the level from which they cannot rise, and are ambitious of involving multitudes in their own ruin.

It is perhaps well that the subject thus forced upon the attention of the nation should engage the public mind, so that it may receive a thorough investigation; though, for many reasons, the discussion of it is very disagreeable. But in a matter so important, affecting the constitution of families and of society, it is in itself desirable that mere traditional opinions, however just, should be replaced by intelligent conviction. The result attained by a man's own searching of the Scriptures, is of more value to himself and to others than that at which he arrives merely by looking into a Table of Forbidden Degrees, or even a "Confession of Faith," however much he may respect the memory of those by whom it was drawn up. Nor can purity and virtue enjoy a sufficient safeguard, if, on the one hand, interested parties are to go on in the industrious dissemination of erroneous opinions, recommended by plausible arguments; and if, on the other hand, mere supineness be manifested, and no care be taken to analyse their sophistries. But, if a larger number of minds than hitherto were brought to an independent and thorough examination of the whole subject, I have no doubt at all, the old hereditary opinion would be confirmed throughout society at large.

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For whatever is indelicate, for whatever is odious in the discussion of this subject, the parties who commenced the agitation must be held responsible. They are careful indeed,—for it suits their design,—to keep its disgusting features out of view. But others cannot consent to do injustice to the cause of truth, by imitating their example. Incest is a word, the utterance of which they eschew. Their opponents have not been much accustomed to use it, but are now compelled. It must not be forgotten that the whole question relates to this odious crime.

In regard to a subject like the present, every Christian mind must feel constrained in the first instance to inquire, whether God has given any law, and what that law is. Nor could the importance of such an inquiry be disputed, without renunciation of all show of reverence for God and for his Word. The supporters of Mr Wortley's bill have not indeed generally displayed any great fondness for Biblical criticism or theological argument; but they have almost, without exception, reiterated a reference to one text of Scripture, from which they summarily infer that the law of God is in their favour; and in the debates in the House of Commons, it was fully acknowledged upon their part, that the theological argument, if conclusively made out by their opponents, would be more than sufficient to counterbalance every other. "Some persons contend that these marriages are forbidden expressly or inferentially by Scripture," say the Commissioners on the Law of Marriage in their "First Report," not seeming to know that many persons are of this opinion; however, they add, "If this opinion be admitted, *cadit questio.*"

Let us proceed to the consideration of the text so often quoted as decisive.

One or two preliminary observations, however, may here be allowed, and I am not afraid that those who have paid any attention to the history of the present question will reckon them out of place. It cannot be too strongly impressed upon our minds that the law of God is to be ascertained by a searching of the Scriptures, which every man is bound to search for himself; and that by the Word of God all judgments of councils and canons of churches are to be tried. "To the law, and to the testimony; if they speak not according to this Word, it is because there is no light in them." It is, however, a bold thing for any man to reject with contempt, in a matter like the present, all reference to the general opinion of those who have been most venerated for learning, virtue, and piety, or to treat with supercilious indifference, as Mr Wortley has done in his Letter upon this subject to Principal Macfarlan, the verdict even of one such council as the Westminster Assembly, more especially when not only the verdict has been given to the world, but also, as in this instance, the reasons upon which it was founded. A wise and sober-minded man may often be so influenced by human authority as to pause and reconsider the grounds of his opinion, or even to be restrained from acting upon his own opinion where there is no necessity for his so

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doing. He may adopt this as the best way of maintaining a pure conscience in a case in which conscience otherwise would leave him free. Nor is the mental or moral constitution of that man to be envied, who, being aware that marriage with his deceased wife's sister or niece has been generally condemned as incestuous by the most learned and eminent divines of the Christian Church, goes on, nevertheless, to contract such a marriage—no necessity compelling him—in the confidence of his own contrary judgment. There is an arrogant independence which, in such cases, is almost as dangerous as an undue deference to authority. Conscience is sometimes too easily satisfied; and there is no small reason to suspect the decision to which the mind comes when it accords with the impulses of that passion which first prompted the mind's inquiry. Is not this admitted and founded upon by the advocates of marriage with a deceased wife's sister themselves in their frequent references to Henry VIII., and their attempts to ascribe to his passions the verdict of the Church of England? Moreover, some slight feeling of indignation may well be awakened when we find them rejecting, with one breath, all the authority of churches, councils, synods, canons, and confessions of faith—and then, with the next, quoting in their own favour the opinions of the very select number of divines worth naming and quoting who have really taken their side, unfairly appropriating names to which they are not entitled, or mustering up a shadowy host of authorities not named at all, and of whom it is only possible to conjecture, that they may be those of whom lists are to be found in the Appendix to the First Report of the Commissioners appointed to inquire into the state and operation of the Law of Marriage.

We come now to the examination of the text upon which so much reliance is placed by the supporters of Mr Wortley's Bill. All, or almost all, the advocates of marriage with a deceased wife's sister, appear to regard it as perfectly decisive; and, when any mention is made of Scriptural authority, it is immediately thrust forward. It is the 18th verse of the 18th chapter of Leviticus. The words, as they stand in our English Bibles, are these: "Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness, beside the other in her lifetime." These are the words which we continually hear reiterated. Many errors, however, have arisen and prevailed in consequence of this way of dwelling upon isolated texts, without comparison of other places of Scripture. In the present case, those who so much employ the text for their own particular use, are generally careful to avoid the examination of the original Hebrew, and even omit to take notice of a marginal rendering given in the ordinary copies of our English authorized version of the Bible.* Yet the case is one in which some reference to the original is peculiarly necessary, and in which it may fairly be de-

* It is a somewhat singular fact, that although the Marriage Commissioners, in their Report, have given as an Appendix (No. 46) the common translation of Lev. xviii. 6–18, and other passages, not a word of any marginal rendering appears.

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manded of those who quote the text with so much confidence, that they should show some reason why a Hebrew phrase not unfrequent in Scripture should, in this one place, be translated in a way entirely different from that in which it is translated in all other places. To omit all notice of the marginal rendering is, under the circumstances, upon the part of men who have devoted their time and attention to this subject, a thing of an unpleasantly suspicious aspect; and it is surely intolerable that any man should any longer set forth his opinions and arguments by the help of this text, without telling us why he sets aside the marginal rendering, and adheres to the other translation. For this marginal rendering gives a totally different meaning to the text, and annihilates the argument which has been so confidently deduced from it.

The words of the verse have been already quoted as they appear in the English Bible. The marginal rendering is noted thus:— "OR, *one* wife to another." The verse would therefore be read thus:—"Neither shalt thou take one wife to another, to vex her, to uncover her nakedness, beside the other, in her lifetime." According to the one translation, which the advocates of Mr Wortley's Bill in most instances tacitly adopt as if its correctness were unquestionable, the verse prohibits a man's marriage with the sister of his living wife; but appears, or is plausibly represented as appearing, to sanction his having more wives than one at the same time, provided they be not sisters, as well as his taking in marriage the sister of a wife who has died. According to the other translation, the verse expressly prohibits polygamy, and by obvious implication permits a man to marry again after his wife's death; but makes no reference whatever to the degrees within which marriage may be contracted.

Surely Mr Wortley and his coadjutors were bound to have entered upon a critical examination of a text upon which they lay so much stress, and upon a particular rendering of which they would make such momentous consequences depend. This they have hitherto failed to do. One or two instances may indeed be found in the Minutes of Evidence contained in the First Report of the Commissioners, in which witnesses, endeavouring to show that the law of God does not prohibit marriage with a deceased wife's sister, have alluded to the difference of opinion subsisting in regard to this verse, and have assigned something professing to be a reason for the adoption of the interpretation apparently favourable to such marriages. The remarks made upon the verse by some of these reverend gentlemen must yet, ere we have done, receive a little attention. But the critical examination of the verse, the thing of all things most requisite, has not been attempted by any of them. Meanwhile, therefore, although the supporters of the Bill may refer, in fine set phrase, like Mr Wortley himself,* to the "deep study and reflection" by which they have "satisfied their own minds and consciences," these fair words must be dismissed as at best the mere

* Letter to Principal Macfarlan.

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excuses of self-delusion. What sort of study is that which never touches upon the most essential element of the whole question?

Every language has idiomatic expressions, and the Hebrew language abounds in them. To translate these verbally would give to the sentence in which they occur either a meaning different from what it really bears, or no meaning at all. Illustrations might easily be given, and no small number of them have been set down by Mr Dwight, an American lawyer, at the commencement of his admirable critical examination of the verse now before us, in a little book called "The Hebrew Wife,"* which has been republished in this country, with an Introductory Recommendation by Dr Wardlaw, and which perhaps few have read without concurring in the sentiment which Dr Wardlaw expresses—that it is the production of a master in dialectics. I shall take for granted, however, that every one is sufficiently aware of the necessity of attending to these peculiar idioms in translating from one language into another, and shall not transcribe any of Mr Dwight's illustrations, nor do more than refer to his imaginary case of the inquirer, resolved if possible to translate, according to the literal meaning of the several words, the direction, "*Nunquam uxori nubas!*" in one of Cicero's letters to his son at Athens, by which the mode of dealing with the present text is so perfectly illustrated. It is a remarkable fact, that the Hebrew words which in this verse are rendered by our translators *a wife to her sister*, are, in every other instance of their occurrence, rendered, as in the margin of this place, *one to another*. Not only so, but a corresponding idiom of the masculine form, which occurs more frequently, *a man to his brother*, is invariably translated as a mere idiomatic expression, *one to another*.† The Hebrew words in question, as used in this verse, are, וְאִשָּׁה אֶל־אֲחֹתָהּ לֹא תִקָּח צָרֹר; verbally, And thou shalt not take a *wife* to her *sister*; or rather, a *woman* to her *sister*. Any one, however, who consults the *Lexicon* of Gesenius, will be informed, that אָח (a brother), preceded by אִישׁ (a man), has no longer its original signification; but that this forms an idiom, used even with regard to things inanimate, whenever the noun by which they are designated happens to be of the masculine gender, and corresponding to the Latin *alter*, *alter*, or to the English, *one another*; whilst, in reference to females, or to things designated by a noun of the feminine gender, the idiom is varied by the use of אִשָּׁה (a woman), and אָחוֹת (a sister). To the same effect, Dwight adduces the authority of Buxtorf, Castell, Robertson, Taylor, and Eichhorn, and such authorities might easily be multiplied. Nothing, indeed, can be more indisputable than the meaning of this Hebrew phrase; and the wonder is, how any doubt ever existed as to the necessity

* "The Hebrew Wife; or, The Law of Marriage Examined in relation to the Lawfulness of Polygamy, and to the Extent of the Law of Incest. By S. E. Dwight."

† Jer. xxxiv. 14, might be captiously quoted as an exception to this statement, but is not really an exception.

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of assigning to it its own idiomatic force in the place now under consideration, as well as in every other. There is a similar phrase, or another form of the same, in which רֵעַ or רֵעֶה, masculine, and רֵעוּת, feminine, a companion, preceded in like manner by אִישׁ or אִשָּׁה, is used in the same idiomatic way, and with the same meaning. It is of frequent occurrence in Scripture, and our translators have followed the good rule of translating the phrase rather than its separate words. Gesenius mentions in his *Thesaurus* a corresponding idiom of the Syriac language, and the expression of the Rabbins regarding a word which occurs only in one place of Scripture (ἅπαξ λεγομένον),—אין לו אח במקרא, It has *no brother* in the Scripture.

Mr Dwight has carefully enumerated and exhibited the instances in which these phrases (especially the first of them) occur. It does not seem necessary to follow him in this, otherwise than by a mere reference to the places of Scripture, which a serious and conscientious inquirer will not be slow to consult for himself. The nature of the case is such, that it seems perfectly capable of being presented in all clearness to any intelligent mind, even without the pre-requisite of Hebrew scholarship. But, if Hebrew scholarship were necessary, a conscientious man would think the trouble of learning Hebrew insignificant in comparison with the danger of committing incest; and the conscientiousness of those who contract marriage with the sisters of their deceased wives, upon the strength of the verse now in question, without the trouble of any such inquiries into its meaning as the present, is a very puzzling phenomenon.*

The phrase, *a man, his brother—a woman, her sister*, occurs in the Hebrew Scriptures in thirty-four instances besides the present. In twenty-five of these it is found in its masculine, and in nine in its feminine form. These instances are:—

Gen. xiii. 11.	Lev. vii. 10.	Jer. xxv. 26.
Gen. xxvi. 31.	Lev. xxv. 14.	Jer. xxxiv. 14.
Gen. xxxvii. 19.	Lev. xxv. 46.	Ezek. iv. 17.
Gen. xlii. 21.	Lev. xxvi. 37.	Ezek. xxiv. 23.
Gen. xlii. 28.	Numb. xiv. 4.	Ezek. xxxiii. 30.
Exod. x. 23.	Deut. xxv. 11.	Ezek. xlvii. 14.
Exod. xvi. 15.	Neh. iv. 19.	Joel ii. 8.
Exod. xxv. 20.	Job xli. 17.	
Exod. xxxvii. 9.	Jer. xiii. 14.	

in which the masculine is used;—and

Exod. xxvi. 3. (twice.)	Exod. xxvi. 17.	Ezek. i. 23.
Exod. xxvi. 5.	Ezek. i. 9.	Ezek. iii. 13.
Exod. xxvi. 6.	Ezek. i. 11.	

in which the feminine is used.

* Not less puzzling, however, are certain other phenomena connected with the conduct of "respectable," "moral," and "religious" gentlemen (and ladies), who have recently formed such connections; and whose "hardships" and "interesting cases" are pressed on the attention of the British Parliament,—such, for example, as their believing, without more ado, because somebody said it, that such a marriage would be valid if contracted in Scotland, and coming down to Gretna or to Edinburgh for its celebration accordingly! Are they entitled to much sympathy, when, after all, it is found that the lady must be designated *spinster*, and the law holds her children to be illegitimate?

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In these instances "we find Abraham and Lot described as a man and his brother, who certainly were not *brothers* in the strict sense of the word; also Abimelech and Isaac, concerning whom no propinquity will be alleged. We find the same idiomatic expression used with regard to the 'kings of the north'—'all the kings of the north, far and near, one with another' (a man with his brother). We find it used with regard to the cherubim above the mercy-seat: 'And their faces shall look one to another' (a man to his brother). We find it used in its feminine form in the description of the tabernacle, with regard to curtains, loops, and tenons; and by Ezekiel, with regard to the wings of the living creatures which he saw in his vision: 'The five curtains shall be coupled together, one to another' (a woman to her sister); 'And under the firmament were their wings straight, one toward the other' (a woman toward her sister.)" * There is no instance affording the slightest countenance to the merely verbal translation, which alone will serve the purpose of Mr Wortley and his friends, in Lev. xviii. 18.

It may be proper to add the following statements and remarks by Mr Dwight, concerning a slightly varied use of this same phrase. "This phrase in the masculine form, *a man to his brother*, occurs also in connection with איש רעהו, literally *a man, his companion*, in four other instances: Exod. xxxii. 27; Isa. xix. 2; Jer. xxxi. 34, and xxxiv. 17. To show its meaning in this connection also, I need cite but one of the passages, Exod. xxxii. 27, 'And Moses said to all the sons of Levi, Go throughout the camp and slay every man his brother, and every man his companion, and every man his neighbour.' . . . . . As the sons of Levi were directed to slay none but persons belonging to the other eleven tribes, it is obvious that the phrase, *a man, his brother*, when thus connected, has no allusion to a brother by consanguinity, but denotes, as elsewhere, *one man, another*, or perhaps from the repetition of the thought, *one man, several others*." † At all events it is obvious that no such consanguinity is here intended as the word *brother* in its strictest sense indicates. There is a strong argument of analogy concerning the use of the word *sister* in the verse before us.

The conclusion appears to be irresistible in favour of the translation which we find in the margin of our Bibles. Nor, perhaps, will the consideration be altogether without weight in strengthening this conclusion, What an awkward mode of expression the exact verbal translation gives! Would any person capable of speaking or writing English, ever frame a sentence thus, "Neither shalt thou *take a wife* to her sister," in order to express what these words are repre-

* *Free Church Magazine*, May 1849.

† *The Hebrew Wife* (Glasgow, 1837), p. 89. In the same page Mr Dwight tells us that the phrase, *a man, his companion*, occurs nineteen times in its masculine form, and four times in its feminine form. "In each of these instances, its precise meaning is *one another*."

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sented to mean? Nor is there any remedy for this without an entire departure from the verbal exactness.

The only attempt worthy of any consideration which I have ever seen, to set aside this conclusion by any further criticism on the Hebrew words, is one originally made in an article which appeared in the New York *Observer*, and which has since been republished in another form. The author is understood to be one whom it is sad to name as the advocate of an evil cause; and of whose support it is strange that Mr Wortley and his friends have not boasted.* "It is to be remarked," says this author,—after briefly stating the argument in favour of the marginal rendering of our Bibles, and after offering certain objections to it from the prevalence of polygamy amongst the Jews, such as have frequently been made by others (and to which attention shall presently be given),—"that in every such instance, this phrase, whether masculine or feminine, has a reciprocal distributive power; that is, a number of persons or things are said to do, or to be so and so, one to another. A plural nominative invariably precedes, connected with a plural verb, and then the action or relation of this verb is by this phrase marked as reciprocal and mutual among the individuals comprised in the plural nominative." This he illustrates by examples, and then goes on to say, "So of the other examples. This, then, is the idiom, and to this idiom the passage in Lev. xviii. 18 has no relation."

This is, however, an extreme refinement of criticism; and very like an ingenious device for getting quit of a difficulty, and supporting a favourite opinion. It is not pretended that any other instance occurs of the use of the same words in any thing like the same way in which it is here attempted to persuade us that they are used in Lev. xviii. 18. That case would stand utterly alone. The difference is not very great betwixt the manner in which the phrase is said, by those against whom this author contends, to be used in Lev. xviii. 18, and the manner in which he allows that it is commonly used. The very nature of the phrase is such that its use must commonly be with a reciprocal distributive power; a consideration which greatly diminishes the argument from its being found in so many instances in this use. But it is still more important to note, that the restriction thus attempted to be put upon the use of the Hebrew idiom in question, cannot be pretended with regard to the perfectly analogous idiom אִישׁ רֵעֵהוּ, which also is almost always used with a reciprocal distributive power, and in connection with a plural nominative and a plural verb;† but which occurs in Exod. xviii. 16, in a way which better corresponds with the text now under examination, "I judge between one and another," וְשָׁפַטְתִּי בֵּין אִישׁ וּבֵין רֵעֵהוּ; and in Ruth iii. 14, "She rose up before one could know an-

* Dr Robinson.

† It is not strictly correct to say that the phrase אִישׁ אַחִיו is always used after a plural verb with a plural nominative, as in Jer. xiii. 14, it is otherwise; but it might be reduced to that form.

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other, בְּמַרְאִים יַכִּיר אִישׁ אֶת־רֵעֵהוּ.* It is also quite contrary to the analogy of the Rabbinical Hebrew, as appears by the instance above quoted from Gesenius. It may be added, from the same authority, that it is contrary to the use of the corresponding idiom in Syriac, as appears from its occurrence in the Syriac translation of Matt. xii. 13, "And he stretched forth his hand, and *it was restored whole like the other.*" And in general it may be observed, that the use of the words brother and sister in Hebrew, in instances where there is no such correspondence of form in the expression, countenances the idea that the language of Lev. xviii. 18 is idiomatic.

It is, however, quite true that the authority of the most ancient versions is in favour of a translation of this verse corresponding with that which our translators have given in the text of our English Bible. It was probably this circumstance which mainly induced them thus to adopt a translation with which the margin shows how far they were from being perfectly satisfied. The Septuagint, the Vulgate, the Syriac, the Samaritan, the Arabic, and the Chaldee, all translate the verse in the same manner. Some of these, however, are cognate languages, and the translation merely exhibits the same idiom with the original. It is otherwise with the Septuagint, which really exhibits the opinion of the translators. The Vulgate is of less importance. But there is no lack of evidence that this view of the meaning of the verse was favoured by many of the old Jewish Rabbis. The *Phesichtha* goes all the length of those interpreters of our own day who infer from this text the lawfulness of marriage with a deceased wife's sister. Reference was indeed made by one of the clerical witnesses examined before the Commissioners in 1848 (and by one of those most decidedly in favour of the legalization of marriage with a deceased wife's sister), to the traditional law of the Jews, which he said did, it appears, "exclude the marriage of two sisters in succession, but whether upon the ground of this passage, or upon some more general law, does not appear"† Perhaps there was some difference of opinion amongst the Talmudists themselves; but the truth appears to be, that in general the ancient Talmudists, and all the Talmudists down to the present day, have viewed the verse rather as that reverend gentlemen himself views it; and it is one of the points of their controversy with the Karaites.

It is right that the advocates of this interpretation should have the full benefit of all the authorities they care to quote, such as Paulus Fagius, and Vatablus, and Grotius; although in the further prosecution of this controversy their attempts to appropriate the authority of Grotius are not quite so successful. They may be allowed to make all that they can out of Dodds' Commentary and

* See also Esth. i. 19.

† Evidence of the Rev. R. C. Jenkins. He refers to "Tract. Talmud. Jefamoth, cap. i. §. 1."

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that of Adam Clarke. One of their number seems to have thought himself strong in authorities, when, after mentioning the opinions of these commentators, he tells us that this view of the meaning of the verse has been "adopted by Grotius, Montesquieu, Mr Justice Storey, and Chief Justice Vaughan." *

On the other side, likewise, authorities might be quoted, and these not insignificant. The opinion of the Karaite Jews is at least as well worthy of attention as that of the Talmudists, although these have been and are so much more numerous.† The *Assembly's Annotations* might be quoted, and Matthew Poole. But the accumulation of such authorities would scarcely serve to place the matter in a clearer or stronger light.

Let us rather proceed to inquire whether the general adoption of a verbally exact translation cannot easily be accounted for. We know how much our English translators were guided by the versions which had been made before. Our inquiry, therefore, is not so much concerning the adoption of this rendering by them or any other modern translators, but concerning its adoption by the Septuagint and others in ancient times. That reason, it will readily be admitted, must have been the same which governed the Targumists and Jewish Rabbis generally. To them we must look as the real authors of the interpretation which this translation has been originally framed to countenance. And their reason might have been guessed, even if they had not told us. The verse, according to this interpretation, seems favourable to polygamy. According to the other interpretation, it expressly prohibits polygamy. And a prohibition of polygamy was what the Jewish Rabbis were resolved not to find in the Scriptures.‡

It is upon this ground that they argue concerning the interpretation of this verse. According to the *Phesichtha*,|| there is not only no law against polygamy (which, however, it might have been remembered, was a mere begging of the question), but a conclusive argument is to be found in its favour from the practice of many righteous men—as, for example, Elkanah, and David, and Solomon, —an argument which has been much used in this branch of the pre-

* *Law Magazine*, May 1839.—And the very same words are used by "The New England Puritan." So that there must be a class of minds to which they do not appear ridiculous.

† Dr Adler, the chief Rabbi of the Jews in London, whose letter to the Secretary of the Marriage Commission appears in the Appendix to the Commission's Report, dismisses the opinion of the Karaites very unceremoniously; which, of course, was to have been expected. But when he says, that to the best of his knowledge not a single opinion can be met with throughout all the Rabbinical writings which would even appear to throw any doubt on the legality or propriety of the marriage of a widower with his deceased wife's sister, Mr Jenkins and he appear to be at variance. But it is of little consequence how the Rabbis have decided. They have made the law void through their traditions.

‡ But it is visible what brings them into that opinion—viz., the beloved and presumed lawfulness of polygamy, which they are unwilling to have thus restrained. —(Dr Hammond, *Works*, i. 5 4.)

|| See *Critici Sacri*.

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sent controversy down to the present day, but of a kind which might easily be employed for vindication of many an enormity.*

Grotius puts this argument in its strongest form:—"Lex in Deuteronomis satis clara est, plures uxores permittens. *Accedit optima legis interpres consuetudo.*"

Mr Binney of Fish Street Hill, stated the same argument in other words, on his examination before the Commission on the Law of Marriage. He deals summarily with Lev. xviii. 18. "Whether the list in question [in Lev. xviii.] be a marriage-law, or only prohibitions of criminal acts, it appears to close with an injunction of the nature of a law bearing upon the marriage in dispute. It is forbidden 'to take a wife to her sister to vex her in her lifetime.' It cannot be shown that this is merely a condemnation of polygamy or bigamy. The existence of polygamy among the Israelites in Egypt and in the wilderness, seems to be manifest by the fact, that the number of first-born among the children would seem to have been as one to every forty-two; and it certainly was practised in the time of the Judges, and downwards. The law seems to mean just what it says;† and it implies, if any thing can imply, or any weight can be given to an implication, what would appear to sanction the particular marriage in dispute; for it forbids, not the marriage of a deceased wife's sister, but only marriage with the sister of a living one." ‡

The assertion made by Mr Binney concerning the proportion of the first-born to the children in Egypt and in the wilderness is startling. It would be more easily examined if he would inform us what were the data upon which his calculation was made. Meanwhile it may be dismissed as inaccurate; and the fact of the substitution of the Levites for the first-born of all the other tribes, and the near numerical correspondence, is of itself sufficient to show that some strange blunder has here been made. Jahn, in his "Biblical Antiquities" (chap. x.), uses an argument from the number of the first-born, to show that polygamy was practised by the Israelites at the period to which Mr Binney refers; but his argument, sound or unsound, is very unlike Mr Binney's. If, however, the first-born of the mother was taken, and not the first-born of the father, as would appear from the terms of the Mosaic law in Exodus xiii., &c. (and as quoted in Luke ii. 23), then the one argument is really as unsound as the other.‖ And is it by such reasonings as these that Mr Binney

* This is Dr Adler's argument. [See Report of Marriage Commission, Appendix, No. 35.] "The rendering adopted by the Karaites . . . . . is not only destitute of all authority, and discordant with the spirit of the sacred language, but quite contrary to the truth, inasmuch as polygamy, which would thereby be prohibited, was formerly permitted, as may be proved from innumerable instances." That is, polygamy was practised, therefore it was permitted. Would not innumerable instances thus prove that adultery, or prostitution, or profane swearing, is permitted by the laws of this country?

† It is impossible to avoid a passing reference to the admirable style of argument here employed.

‡ Minutes of Evidence, p. 88.

‖ See the note on Luke ii. 23, in "Campbell on the Gospels."

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has satisfied his mind upon the great question now at issue? or is he yet satisfied?

However, it is easier to prove the *existence* of polygamy amongst the Israelites than its *lawfulness*. Other instances can be mentioned in which the practice of the Jews was very contrary to their law. "In Lev. xxxiii. 33, 34," says Mr Dwight, "the Israelites were commanded to dwell in booths seven days every year at the feast of tabernacles, throughout their generations for ever. Yet we are told by Nehemiah, that from the days of Joshua (B.C. 1446) to his days (B.C. 444), or 1002 years, it was wholly neglected. Yet not a word of censure for this neglect has escaped those who wrote the history of that long interval."* And how often do the prophets complain of the habitual disregard and disobedience of God's commandments!

It is a singular fact, that the modern advocates of marriage with a deceased wife's sister, in order apparently to the sole object of making out their argument from this verse, are far more decided in pronouncing upon the lawfulness of polygamy amongst the Jews than were some of the old Rabbis themselves. "It is the determination of some Jews, I say not how truly," says Dr Hammond, "that the Mosaical permission of divorces is the only account upon which polygamy can become reconcilable even with Moses' law. So Rabbi Ami in Gemar. Babyl. Tit. Jabimoth, c. 6, *Every one that marries a wife to a wife, must put away the first and endow her.*"† And, with regard to divorcing, there was great diversity of opinion amongst them, as even the question propounded to our Lord upon this topic shows—the school of Hillel maintaining that a man might put away his wife "for every cause," and the followers of Rabbi Shammai interpreting the law in a more restricted sense. Jahn's account of this matter is, that polygamy was forbidden by the primeval institution of marriage—that it had, however, become very common both amongst the Hebrews and amongst other nations before the time of Moses—that in the Mosaic law provision was made for the progressive diminution of this great evil; and he goes on to show how certain precepts of the law were calculated to prevent or to restrain it.‡

Mr Dwight has examined this subject with great care. He begins by referring to the great primeval law of marriage, "Therefore shall a man leave his father and mother, and shall cleave unto his wife; and they shall be one flesh." Upon this he founds as prohibitory of polygamy—a view of its meaning which derives the strongest confirmation from the reference made to it by our Lord. He goes on to call in question the toleration of polygamy, or dispensation for it under the Mosaic code; and, besides endeavouring to show that the passages supposed to sanction it do not even relate to it, he argues with more obvious success, that their recognition of its existence does not imply any permission of it; for legislation may proceed upon the assumption of a fact of which it is as far as possible from

* Dwight's "Hebrew Wife," 28.
† Hammond's *Works* (fol. 1684), I. 591. ‡ "Biblical Antiquities," ch. x.

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declaring any approbation. He insists also upon the clear condemnation of it in Malachi ii. 14–16, "The Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously: yet is she thy companion, and the wife of thy covenant. And did not he make one? Yet had he the residue of the Spirit. And wherefore one? That he might seek a godly seed. Therefore take heed to your spirit, and let none deal treacherously against the wife of his youth. For the Lord, the God of Israel, saith that he hateth putting away." And in conclusion, he dwells upon the language used in the Old Testament, in incidental references to marriage, which is always suited to the idea of monogamy, and never to that of polygamy.* This, although merely corroborative, is likely to prove with many persons not the least impressive argument employed. Any one may easily pursue the inquiry for himself, and there will be found in it something remarkably pleasing and beautiful.

If, indeed, the text which we are now examining could be shown to bear the meaning affixed to it by the advocates of marriage with a deceased wife's sister, there would be no difficulty in finding an argument by which to prove that polygamy was legally tolerated on the part of the Jews. Perhaps we might even begin to hear of an extension of the argument and the toleration. There have been individuals already, who have signalized themselves by contending for the lawfulness of polygamy under the Christian dispensation; and "interesting cases," involving great "hardships," might possibly be brought under the attention of the Marriage Commission, if they should begin to direct their inquiries to this part of their subject.

It is not unimportant to observe, as affecting the interpretation of Lev. xviii. 18, and this whole question, that the passage beginning with Lev. xviii. 6, consists of a general precept, under which particular precepts are arranged; and that each of these is of exactly the same form. The 18th verse, however, is of a different form altogether. This favours the opinion, that the law which begins at the 6th verse is concluded in the 17th; and that the 18th verse is as separate and distinct from what goes before it as it is from what follows it, constituting another of the great precepts, like that of the 6th verse, comprehended under the greater precept of the 3d verse, to which belongs all that is contained in the chapter.

The following remarks of Dr Hammond are worthy of attention: —"And that this s the meaning of the place [the prohibition of polygamy], may be first more generally concluded from the variation of the style in this from the former verses. The former interdicts had been given upon the reason of propinquity; and accordingly that reason is distinctly mentioned, first, in general (verse 6), and

* See Gen. xxiv. 3, 4; Deut. xxviii. 54, 58; Ps. cxxviii. 3; Prov. v. 15, 18, 19; Jer. v. 8, vi. 11.

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then pursued in all needful particulars of it (to the end of verse 17). But the interdict here is upon a new reason, that of vexing, which is an evidence that the first sort of interdicts (continued for twelve persons) is now quite finished, and that another head is begun." *

Yet, of whatever consequence it may be in this controversy to prove that Lev. xviii. 18, ought to be translated in a way which of necessity excludes the inference so confidently derived from it by the advocates of marriage with a deceased wife's sister, it is not to be conceded to them that their inference necessarily flows from the verse even as by them translated. Commentators who have not rejected the ordinary translation, have nevertheless, on viewing the verse, both in itself and in the light of the preceding context, indignantly rejected that conclusion. Thus Basil, in his Epistle to Diodorus, written in the end of the fourth century, argues, as many have done since, and perhaps more successfully than he, from the reason annexed to the prohibition, "Thou shalt not take . . . . . *to vex her.*" Thus, also, he refers to the statutes immediately preceding, using substantially the same argument from the general precept of the 6th verse, and the same argument by parity of reasoning from some of the special precepts following, which intelligent Christians of all denominations, and in all countries unto this day, have been accustomed to use as their principal arguments against the class of marriages in question.

Calvin, likewise, although he adopts without remark the ordinary mode of translating the verse, expresses himself very strongly against the attempted inference, and against those who advocate such marriages. If it is to be regarded as a bad sign of any cause, when its advocates have recourse to disingenuous shifts and artifices in its behalf, such a presumptive argument may be found in the conduct of one of the most notable amongst the advocates of marriage with a deceased wife's sister upon the other side of the Atlantic, who quotes Calvin as an authority concerning the translation of the verse, without alluding to the remarks which Calvin makes with regard to its interpretation, and then adroitly introduces the name of Calvin in the list of distinguished and undistinguished names, some of Christians, some of infidels, who "have pled for the lawfulness of such marriages."† "Great names are fast accumulating," the author goes on to say. But it is scarcely fair to accumulate them in this fashion. For Calvin himself says, in his Commentary on Lev. xviii. 18: "Hoc loco freti quidam protervi homines, licere volunt, si quis uxore privatus sit, germanam ejus sororem ducere quia restrictio addita est, Ne vivâ priore alteram accipiat. Unde colligunt non prohiberi quin succedat in demortuæ locum. Verum expendere decebat legislatoris consilium ex disertis ejus verbis: quia non tantum incestus vel turpitudinis fit mentio, sed zelotypiæ et rixarum quæ inde oriuntur. Si tantum dictum esset, Ne discooperias turpitudinem, non sine colore obtenderent, viduitate liberum fieri maritum ad du-

* *Works*, i. 584. † The "New England Puritan."

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cendam alteram uxorem, verum ubi exprimitur diversus legis finis, ne jurgiis et contentionibus vexetur quæ bona fide nupsit, certum est hac exceptione frenari polygamiæ licentiam, ut Israelitæ contenti una injuria, saltem sorores non committerent in hostile certamen. Jam nimis iniqua erat primæ uxoris conditio ubi cogebatur æmulam et pellicem ferre, set assidue rixari cum sua consanguinea minus tolerabile erat. Itaque nomen sororis non restringitur solum ad germanas, sed propinquas etiam comprehendi existimo, quarum alioqui incestuosæ non fuissent nuptiæ."* Does Calvin then plead for the lawfulness of such marriages?

"The interpretation to which those are necessarily driven who favour the marriage in question," says Mr Dwight, "is the following:—Neither shalt thou take a second wife, who is the sister of thy first wife, to vex her, to uncover her nakedness beside the other in her lifetime: although thou mayest take one who is not her sister, because that will not vex her, and her sister also after her death. That it would vex a wife, to have her husband bring home her sister as a second wife, is readily admitted; but that it would not vex her to have her husband bring home a second wife who was not her sister, will sound oddly in the ears at least of wives."†

But we are reminded of the quarrels of Rachel and Leah. Those who have expounded the verse so as to favour marriage with a deceased wife's sister, have, one after another, referred to these wives of Jacob either to assign a reason for the law as they understand it, or to illustrate the clause which refers to the vexing of the wife. The credit of originating this idea would seem to be due to some of the ancient Rabbis. Nothing makes it worthy of a moment's notice except its antiquity, and the frequency with which it has been copied from one work into another. Mr Dwight disposes of it by reference to the strife betwixt the wives of Elkanah, who were not sisters. He contrasts the cases at some length; but a mere reference seems sufficient.

That the interpretation of this verse is really to be regarded as a main point in the present controversy, must be obvious to all who reflect upon the incessant quotation of it, in Parliament and out of Parliament, by those who are favourable to the change of law proposed by Mr Wortley; and will perhaps become still more apparent to any one who will take the trouble of looking into a few commentaries; as he will find that, according to the view taken of this verse, is in general the view taken of the question now at issue, and that, in connection with this verse, the opinion of the commentator is expressed upon that question.

It is upon this verse that Dr Chalmers, in his "Daily Scripture Readings," makes those observations over which Mr Wortley and his friends sound the trumpet of exultation. Here the author may be allowed to quote from an article contributed by him to the *Free Church Magazine* in May last—in which, after a brief examination of the argument as to the meaning of this verse, he went on to say:—

* Comment in Septimum Præceptum. † "The Hebrew Wife," p. 94.

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"We might, perhaps, after this statement with regard to Lev. xviii. 18, be justified in passing on to another branch of our argument, without reference to the unfortunate remark made upon this verse by Dr Chalmers, in his 'Daily Scripture Readings.' We confess that it is with pain we allude to it; but we would probably be charged with unfairness if we did not, and we are not indifferent to the evil use which may be made of so great a name. We know how readily the advocates of error lay hold of any inadvertency upon the part of the eminent champions of truth; and we were prepared to expect that the supporters of Mr Wortley's Bill would turn to great account the inadvertent admission made by Dr Chalmers, even before we saw Mr Wortley's published Letter to Principal Mafarlan, in which he endeavours to persuade the very reverend Principal, and through him the people of Scotland, into approbation of the proposed measure. The words of Dr Chalmers are these:—'It is remarkable that, while there is an express interdict on the marriage of a man with his brother's wife, there is no such prohibition against his marriage with his wife's sister. In verse 18, the prohibition is only against marrying a wife's sister during the life of the first wife, which of itself implies a liberty to marry the sister after her death, beside implying a connivance at polygamy.' This Mr Wortley describes as a recorded judgment; expresses himself as sure, that 'by the whole Church of Scotland, notwithstanding recent differences, the judgment and opinion of Dr Chalmers on such a point as this will command respect;' and goes on to speak of 'a mind like his, in the secret communing with God and his own conscience, and in the unbiassed and deliberate exercise of its undiminished powers,' coming to this conclusion 'upon the close examination of Scripture.' It is worthy of observation, however, that the words above quoted from Dr Chalmers are all that relate to this subject. And do these words, we would ask, justify Mr Wortley's language concerning Dr Chalmers' 'clear testimony,' 'recorded judgment,' a 'conclusion come to upon the close examination of the Scripture, in the secret communing,' and so forth? Is it fair thus to adduce such a passage of a posthumous work, and of such a posthumous work? To us it seems a poor compliment to the memory of the illustrious dead, to represent Dr Chalmers as in this hasty, indifferent manner, recording a deliberate judgment on a grave question—that judgment also being contrary to the Confession of Faith, which he had deliberately subscribed. It was not thus that Dr Chalmers would have treated that Confession of Faith, if he had found cause to think that upon any point it was in error. We think it most obvious that we have here no deliberate judgment of Dr Chalmers at all, that the *close examination* is a mere assumption of Mr Wortley's, and that the unfortunate words he quotes are nothing else than the hasty jotting of a hasty thought. We venture to express our confidence, that Dr Chalmers never would have written such words with the language of the Westminster Confession of Faith present to his mind, and

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far less would he have committed them to the press. Nay, we are confident that he never would have written them if even the marginal reading had met his eye; but we suspect he sat with the pen in his hand, noting down the reflections that occurred to him as he read his daily portion in an English Bible, whose type suited his failing sight, and in which marginal references and readings were awanting. To the Hebrew idiom, it is impossible to suppose that he had for a moment adverted. Nor could any man have written the first sentence above quoted, if it had occurred to him that the marriage of a father with his daughter is not expressly prohibited, although there is an express interdict upon the marriage of a man with his mother, or even with his stepmother."

To all this it may be added, that when this subject was discussed in the Free Presbytery of Edinburgh in May last, in consequence of Mr Wortley's Bill, Dr Cunningham called the attention of his brethren to another passage of the "Daily Scripture Readings," occurring only a few pages after that of which Mr Wortley and his friends make so much, in which a principle is laid down directly leading to a conclusion the very opposite of that to which they would have us believe that Dr Chalmers had deliberately come. On the 19th verse of the 20th chapter of Leviticus, of which verse the words are these, "And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister; for he uncovereth his near kin: they shall bear their iniquity," Dr Chalmers says, "On verse 19, let me remark, that a mother's sister is not of nearer kin than a sister's daughter, nor is a father's brother * of nearer kin than a brother's daughter." This is the assertion of one of the most important principles upon which the Westminster Assembly proceeded in framing that portion of the Confession of Faith which relates to the prohibited degrees—and upon this principle the class of marriages now under more particular consideration must immediately be condemned, because a brother's wife is not of nearer kin than a wife's sister (or, to state the case conversely, than a sister's husband), and concerning a brother's wife there are express prohibitions both in Lev. xviii. 16, and in Lev. xx. 21.

So much has been made of the remark of Dr Chalmers on Lev. xviii. 18, that Mr Napier (Member for Dublin University) thought it necessary, in his speech against Mr Wortley's Bill in the House of Commons, to refer to the testimony of Dr Lee concerning Dr Chalmers' deliberately expressed judgment against the object contemplated in that Bill. Perhaps, therefore, it may still be proper to advert to the account given of the "Daily Scripture Readings" by the Editor, and by Dr Chalmers himself. For as these things have escaped, it is probable they might still continue to escape the attention of Mr Wortley and the eager supporters of his Bill. Yet Mr Wortley might have read, in the ordinary advertisement of the pub-

* I presume that, either by a slip of the pen or a typographical error, the word *brother* occurs here instead of *sister*.

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lication, that "a portion of Scripture, extending generally from ten to twenty verses, was read daily, and the reflections which it suggested were embodied in a few brief paragraphs," and that "Dr Chalmers' own description of the work was, that it comprised his *first and readiest thoughts* upon the passage coming daily under review." In Dr Hanna's preface, contained in the very volume from which his quotation is made, he might have found the same words of Dr Chalmers. "His own description of these *Horæ Biblicæ Quotidianæ* was, that they consisted of *his first and readiest thoughts.*" He might there also have read, that "his great desire was to take off from the sacred page as quick, as fresh, as vivid, and as complete an impression as he could—and, in using his pen to aid in this, his object was far more to secure thereby a faithful transcript of that impression, than either critically to examine, or minutely to describe the mould that made it." It is true, he would also have found the work described as presenting us "the mature fruits of a whole lifetime's study of the Divine Oracles;" but he would have felt himself compelled to regard this as qualified by the other statements made concerning the nature of the study given at the time to the passage immediately in hand, and the abstinence from "any lengthened critical, or historical, or doctrinal investigations." He ought to have reflected that critical investigation was absolutely necessary in this particular instance to render any man's opinion valuable. It is, moreover, sufficiently obvious, that the first and readiest thoughts are in this instance to be regarded as nothing more than (in the words used by Dr Duncan in the Free Presbytery of Edinburgh) a jotting, such as a man makes of a difficulty which occurs to him in his study. I do not say that Mr Wortley ought to have been restrained by these things from quoting the passage at all, but I do say that he ought to have been restrained from quoting it in the way in which he has quoted it; the only way, however, in which it could have availed him much. But, after all this, what is to be thought of the manner in which he has quoted it?—of his triumphant production of it as a verdict pronounced by Dr Chalmers, in the unbiassed and deliberate exercise of the undiminished powers of his mind, upon the closest examination of Scripture,—with all the repetition and amplification of the ideas thus conveniently introduced? Under what hallucination has Mr Wortley laboured? In what dreamy mood did he imagine things like these? Was it thus that he satisfied his own mind and conscience by deep study and reflection, in his tender solicitude concerning "the morality and happiness of God's people in these realms?"

Mr Wortley will certainly not object to these little strictures on his hasty assumption, especially when he recollects how he himself referred to the conduct of Mr Keble, in another matter connected with his present undertaking. "It was said," as Mr Wortley is reported to have spoken in the House of Commons, some two months after he wrote his Letter to Principal Macfarlan,

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"that they wanted to compel clergymen to celebrate these marriages. He held in his hand a pamphlet, written, *he regretted to say*, by a clergyman of the Church of England, in which so little attention was paid to facts, that this assertion was put forward. In the third edition, however, the error was removed, and the very contrary was stated to be the object of the Bill; and yet this alteration was made, without even a foot-note alluding to the mistake that had been made in the previous editions. He *regretted to add* that the clergyman *who had been capable of this conduct* was no other than the distinguished author of the 'Christian Year.'" *

The importance which has been assigned to Lev. xviii. 18, as an argument, and as *the* conclusive argument to prove that marriage with a deceased wife's sister is not contrary to the Divine law, has rendered it necessary to devote so much attention to it at present. It is very curious, however, to find the advocates of marriage with a deceased wife's sister, speaking of this verse as if it were that upon which, not they, but their opponents, chiefly depended. *Our* business with the verse is mainly to show that it contains nothing in *their* favour; and our attention is so strongly drawn to it by *their* incessant quotation and reiteration of it in their arguments. But by some strange confusion of intellect, or in consequence of a total and disgraceful ignorance of the arguments which they would fain refute, they sometimes assert that it is upon this verse that the opinion is mainly founded, which has hitherto so generally prevailed in the Church of Christ, concerning the unlawfulness of marriage with the sister of a deceased wife! "The view of those who contend for the prohibition, rests, I think, on the 18th verse of the 18th chapter of Leviticus," said a clergyman of the Church of England, on his examination before the Commissioners.† Yet the gentleman was educated at Trinity College, Cambridge,—had studied the subject,—could quote the Septuagint regarding it,—and had, in his pocket, a quotation which, by and by, he was requested to read, from the *Opuscula* of Cardinal Cajetan. Nay, this same ingenious and learned gentleman was prepared also to hand in another paper, with the contents of which the Commissioners have enriched their Report, entitled, "*Observations on the passage of Leviticus*, chap. xviii. ver. 18, *and on the Origin and History of the Prohibition alleged to be derived therefrom.*" In these observations, it may be as well to add, there is no hint that any translation of the verse, different from the common one, has ever for a moment attracted the attention of their author. It is right that these things should be noticed, in order that the public may be able to judge what sort of evidence was laid before the Commissioners, and what sort of discretion was exercised in the choice of witnesses. Another reverend gentleman, examined by the Commissioners, expressed himself also in the following terms: "I believe that the general construction of the Church and of com-

* Speech of June 20, 1849. Hansard.
† Report, p. 90. Evidence of the Rev. Robert Charles Jenkins.

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mentators has been in opposition to such marriages, founded upon what I humbly believe to be a mistaken view of the passage in the 18th of Leviticus, and the 18th verse." * How can such an error be accounted for?

Let us now attend to those portions of Scripture which really bear upon the subject of marriage with a deceased wife's sister or niece, to which we have seen that the passage so much quoted by the advocates of such marriages has no reference. It is not, as the Marriage Commissioners were absurdly told, the stronghold chosen by the opponents of such marriages; but it is that in which their advocates have sought to intrench themselves, and from which they look forth with an air of confident security. Driven from this position, they are already in effect defeated.

Hitherto the argument has been directed to the purpose of showing that a particular verse of Scripture is not favourable to marriage with a deceased wife's sister. It shall now take the form of showing that certain other passages of Scripture are positively prohibitory of such marriages.

To the most important of these, the attention of the reader has already been frequently, though incidentally, called. It immediately precedes the verse alleged to be of so opposite an import, and is contained in Lev. xviii. 6–17. This passage presents to us in its completest form the Scripture law regarding the degrees within which marriage is not to be contracted; or, in other words, regarding incest. It is introduced by a reference to the doings of the land of Egypt, and the doings of the land of Canaan. "And the Lord spake unto Moses, saying, Speak unto the children of Israel, and say unto them, I am the Lord your God. After the doings of the land of Egypt, wherein ye dwelt, shall ye not do; and after the doings of the land of Canaan, whither I bring you, shall ye not do: neither shall ye walk in their ordinances. Ye shall do my judgments, and keep mine ordinances, to walk therein: I am the Lord your God. Ye shall therefore keep my statutes and my judgments; which, if a man do, he shall live in them: I am the Lord." † Such is the solemn commencement of this chapter, which forms exactly what may be called a *natural chapter* of the Mosaic law; beginning, like others in this part of Scripture, with the words, *And the Lord spake unto Moses.* The introductory reference to the doings of the land of Egypt and of the land of Canaan in the 3d verse, is in the form of a prohibition—a very general prohibition—under which all that is to be found in this chapter is included. Of the sections into which the chapter is divided, the first consists of a general precept, given in the 6th verse, "None of you shall approach to any that is near of kin to him, to uncover their nakedness: I am the Lord." This precept is itself included within the great general precept at the commencement of the chapter, whose meaning it in so far unfolds.

* Report, p. 60. Evidence of the Rev. John Hatchard.
† Lev. xviii. 1–5.

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Under this, again, are ranged in this section a number of particular precepts by which *its* meaning is more perfectly unfolded (from the 7th verse to the 17th, inclusive). It is perfectly obvious that no one of the precepts, from the 7th verse to the 17th, can be reckoned distinct from the law of the 6th verse. These precepts, therefore, must be regarded as explanatory of that more general law, as intended to impress it more strongly upon the minds of those who should read or hear it, and to guide in its application. The 18th verse relates, as we have seen, to a different subject, and constitutes a distinct section of the law contained in this chapter. The remaining sections are, in like manner, composed each of one verse, and are five in number. None of them is expanded by the addition of more particular precepts, as is the case with regard to the law given in the 6th verse; a difference, the reasons of which will readily suggest themselves to any considerate mind. It is obvious that none of them required such illustration of its meaning and directions for its application as that law did; which, without these particular precepts to explain it, men would have been left to extend or to restrict, according to their own fancies,—the condition to which too many divines, by their rejection of the Levitical law, would reduce the Christian Church at the present day. The chapter terminates with a repetition, in somewhat varied phrase, of the great general law with which it commenced, and with a reason annexed for the stronger enforcement of the whole—a declaration of the Lord's great abhorrence of these abominations and abominable customs with which the land of Canaan had already been defiled, and because of which it is emphatically said to vomit out its inhabitants.

The particular precepts (from the 7th verse of this chapter to the 17th) enable us to determine the limits to which the force of the law in the 6th verse extends. They do not, indeed, specify every particular relationship to which it is applicable, but they enable us accurately and satisfactorily to infer the whole extent of its applicability, just as a dotted line marks a boundary; so that we are left in no more doubt about it than if the line were completely drawn. This is a view of the passage, however, which our opponents are not much inclined to take. They are greatly satisfied with the fact, which they take care to assert with earnestness, as if it were a fact of the utmost importance in this controversy, that none of these particular precepts relates expressly to a wife's sister. They argue as if this were absolutely and evidently necessary. Thus Mr Wortley in his Letter to Principal Macfarlan, after giving what we trust may be shown to be an exaggerated view of the state of things in England with regard to marriages of this kind, and concubinages occasioned by the difficulty of getting married, describes this state of things as "reading a humiliating lesson to man's presumption, which has ventured to restrict the freedom of marriage without the *express* sanction of the Word of God." To the same effect wrote

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the Rev. Dr Joel Benedict, described as "formerly a distinguished minister in Connecticut," whose views Mr Wortley's American fellow-labourers have thought it worth while recently to publish to the world. Dr Benedict's views are elegantly stated as follows: "Thus you see Moses has given us a scale, and any one may use it: it is as plain as a gauging-rod, or a table of interest . . . . . A man would marry the sister of his deceased wife, he applies to the scale of forbidden degrees: it is not there. He is free." And again; "But what of all this reasoning? Did Moses expect that the people to whom he delivered his law would make these wise inferences? Far from it. He neither expected nor allowed them to add or diminish. The law was their schoolmaster, and addressed them as children, and they might not add, *especially to the prohibitory statutes*;* neither did they know how to do it: they could only read the prohibition as far as it went, and this was their law." †

It is lamentably certain that no inconsiderable number of persons in America have been found to carry out in a most consistent way the principles here laid down by Dr Benedict, and consequently marriages have been contracted such as Mr Wortley does not propose to legalize. The public mind in this country is not prepared for such a proposal; and Mr Wortley may be perfectly credited when he says that he himself is not prepared for it, and solemnly assures his countrymen that the Bill which is generally known by his name, goes the utmost length which he is prepared to go in this direction. Yet no one can read the preamble of that Bill without perceiving, that the principles and reasons there asserted, if just in themselves, are not to be confined in their application to marriage with a deceased wife's sister or niece. And no one can attend to this principle, so strongly insisted upon both by Mr Wortley and by Dr Benedict, without perceiving that, if this is to be the principle applied to the interpretation of the Divine law, many connections hitherto generally deemed incestuous must henceforth be regarded with complacency and approbation.

Why then does Mr Wortley not carry out his principles, and at once proceed to legalize the marriage of an uncle with his own niece, of which there is no express prohibition, and of a grandson with his own grandmother, of which there is no express prohibition? Nay, there is not even an express prohibition of the marriage of a father with his own daughter. *We* find no difficulty in applying the general law of Lev. xviii. 6, to all these relationships; but *he* must, if the ground is tenable on which he has rested to give forth his reproof of human presumption. *We* reason by inference and analogy, *he* precludes himself from such modes of reasoning. But if an argument from analogy is to be admitted at all, it is sufficient to point

* I have ventured to put these words in italics.

† Published in a pamphlet at Boston, in Appendix to articles from the "New England Puritan," already quoted.

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to the express prohibition of marriage with a brother's wife, and thence to reason to the case of a wife's sister. The argument is strengthened, when the prohibition is regarded as addressed in the one case to the man, and in the other case to the woman. For surely a woman stands to her sister's husband in a relation exactly corresponding with that in which a man stands to his brother's wife. Moreover, the abominable nature of the alliance in question may perhaps in this way become more readily apparent.

The demand of an express prohibition must, however, result in the legalization of marriage with certain near relatives by consanguinity. But an ingenious American writer, already several times referred to, thinks himself able to get over this difficulty. He thinks that a man's marriage with any of his nearest relatives by consanguinity, is to be regarded as prohibited in the general moral precept of the Decalogue; and his reason for so thinking is, that there is in pure minds an instinctive abhorrence of such a connection. "If it be said that the requirement of love to God and man involves a requirement that we should obey those natural and salutary instincts which cause a pure mind to revolt from the idea of such a connection as the marriage of a parent and a child, we grant it. And then do you say that a prohibition of the marriage of a wife's sister is deducible in such a way from the Decalogue? . . . . . Suppose that we should allow that there is in pure minds the same instinctive abhorrence of such a connection as there is against the marriage of a father to his child—we should then allow, of course, that the law of nature, and by consequence the Decalogue, prohibited such a connection. We should have made out the prohibition independently of the Levitical statute, and, of course, have proved that the substance of the statute is binding." * To the same effect the Rev. J. F. Denham, in his examination before the Marriage Commissioners, after saying that he believes "that the moral part" of the Levitical law is still binding upon all mankind, being a republication of the law of nature," added, "I believe that marriage with a deceased wife's sister is not contrary to the law of nature, because it never was prohibited or decided against by any moralist or legislator of antiquity throughout the world; but every other marriage prohibited by the Levitical code was prohibited by the Greeks and Romans as a violation of the laws of nature, independently of the knowledge of revelation." †

But is this Christianity? Are we to forsake the light of revelation, and guide our conduct by the light of nature; and is heathenism to be the exponent of nature?—the laws of Greece and Rome to

* The "New England Puritan."

† Minutes of Evidence, p. 35. It is with a singular air of flippant confidence that this gentleman says, "Nothing will ever persuade the religious and intelligent portion of the population of this country, that there is any such prohibition in God's law." Perhaps severer terms would be applicable when he says, "There is a good deal of vulgar odium attached to marriages of this description;" or speaks of the fact, that persons have contracted them being "remembered against them by vulgar-minded and ill-disposed people." I confess that I cannot read his evidence without strong feelings of indignation.

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determine our idea of the law of God? Heathenism, even in Greece and Rome, varied much in its dictates on these points at different times. And as for pure minds, where is the standard of that purity? Would not all be uncertainty as to the rules of morality, and all very soon unbridled licentiousness in practice? Nor is the interpretation of revelation by the light of nature any other thing in reality than a renouncing of revelation. Christians have always been accustomed rather to avail themselves of the light of revelation, in order to their reading accurately what is written in the book of nature.

A favourite expedient of the advocates of marriage with a deceased wife's sister, for setting aside the argument from this passage of Leviticus is, to insist upon the difference betwixt affinity and consanguinity. They are accustomed to maintain, more or less fully and more or less resolutely, that relationship by affinity does not constitute a barrier to marriage as relationship by consanguinity does. But the 8th verse of the chapter now before us expressly prohibits marriage with a stepmother; the 14th verse expressly prohibits marriage with an uncle's wife; the 15th expressly prohibits marriage with a daughter-in-law; the 16th expressly prohibits marriage with a brother's wife; and the 17th expressly prohibits marriage with a wife's mother or daughter: all which are cases of relationship by affinity and not by consanguinity. Guided, therefore, by these particular precepts, we conclude that the general law extends to relationships of affinity within certain limits; both to relationships constituted by the former marriage of the man himself, and to those constituted by the former marriage of the woman with one of his near blood-relatives. Nor does it seem an unimportant circumstance, that in these precepts there is such an indiscriminate commingling of relationships of affinity and relationships of consanguinity. This may reasonably be held to indicate, that we are to look upon the one much in the same way that we are to look upon the other. It does not seem as if God intended us to regard the one kind of relationship as essentially different from the other.

There is not, however, amongst these precepts, any prohibition of a man's marriage with any one with whom he is related (if relationship this may be called) through two successive links of affinity. In other words, he is not prohibited from marrying any one who is merely by affinity a relation of his wife, or of any of those who are related to him by affinity. To which it may he added, that marriage is prohibited only in cases where the relationship has subsisted from the birth of the parties, or in cases where it has been constituted by the voluntary act of one of them.

These things being considered, there is no difficulty in disposing of certain excessively puerile objections which have been urged against the view of this Scripture law given in the Westminster Confession of Faith—"The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman any of her husband's kindred nearer in blood than of her own." These

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objections have been heard upon both sides of the Atlantic. In substance they amount to this, that if affinity as well as consanguinity is to constitute a ground of prohibition, there is no limit to it. Dr Benedict assumes the principle contended for to be this, "that the husband and wife being one flesh, the wife's relatives are as near to the husband as to herself." And then he goes on to show to what consequences the application of this principle would lead. But the language of the Westminster Confession, which expresses most clearly the generally admitted rule upon this subject is very exact, and not in the slightest degree liable to that construction which alone could give plausibility to objections of the nature now mentioned. It would scarcely have been necessary to have alluded to the ridiculous cavilling of Dr Benedict, had he been singular in this; nor to all that has ever been said to the like purport, if it were not that this is a sort of objection apt also to present itself to minds just beginning to attend to this subject, and to occasion them some confusion and difficulty. A sufficiently close attention to the words of the Confession above quoted, *nearer in blood*, and an examination with reference to them of the Scripture precepts, would soon cause all the difficulty to vanish.

Perhaps the best way of exhibiting the principles generally and justly applied to the interpretation of the Scripture law now before us, may be by a few quotations from the writings of divines who have exercised some influence in guiding the mind of the Church of Christ.

Mr Wortley, in his Letter to Principal Macfarlan, affects to be astonished that the prohibition of marriage with a deceased wife's sister should be found in the Westminster Confession of Faith; saying, that "though the terms of the Westminster Confession of Faith are wide enough to embrace it, it is difficult to ascertain whence it was imported into that solemn document." If Mr Wortley will attend to the quotations following, he will perhaps find this difficulty removed. And it is to be hoped he may feel in some measure ashamed of having expressed a sentiment so disrespectful towards the framers of the solemn document in question.

The first quotation I shall make is from George Gillespie's "Treatise of Miscellany Questions." * It is well known what an important part Gillespie took, as one of the Scottish Commissioners, in the proceedings of the Westminster Assembly.

"Herein," he says, "our writers agree with the *Karæi*, that all kinds of unlawful and forbidden marriages are not expressly mentioned in the law, but divers of them to be collected by consequence, that is, either by parity of reason, or by greater strength of reason; for instance, Lev. xviii. 10, 'The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover; for theirs is thine own nakedness.' Here the consequence is drawn *à pari*: therefore a man may not uncover the nakedness of his great-grandchild, or of her who is the daughter of his son's daughter; for that also is his own nakedness, being a descent *in linea*

* Chap. xx.

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recta from himself. From the same text it is collected *à fortiori*, that much less a man may uncover the nakedness of his own daughter, which yet is not expressly forbidden in the law, but left to be thus collected by necessary consequence from the very same text. It is likewise a necessary consequence that a man may not uncover the nakedness of her who is daughter to his wife's son, or to his wife's daughter; for here the reason holds, it is his own nakedness, his wife and he being one flesh; which gives ground to that generally received rule, that a man may not marry any of his wife's blood nearer than he may of his own, neither may a wife marry any of her husband's blood nearer than she may of her own. Again, Lev. xviii. 14, 'Thou shalt not uncover the nakedness of thy father's brother,' &c. Here it followeth *à pari*, that a man may not uncover the nakedness of his mother's brother; and by parity of reason (ever since that law was made) it is also unlawful for a woman to marry him who hath been husband to her father's sister, or to her mother's sister, the nearness of blood being alike between uncle and niece as between aunt and nephew."

In the work called the "Assembly's Annotations," the following remarks are made upon Lev. xviii. 14, "Thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach to his wife: she is thine aunt."——"*Thine aunt*—when thine uncle is dead; by the same reason that a man is forbidden the bed of his father's brother's or uncle's wife, or aunt, a woman is forbidden the like nearness to her aunt's husband; for as in logic, so in divinity, the difference of sex varieth not the case so much as to make it unlawful in the one and lawful in the other. Somewhat it doth, for where the aunt is married by the cousin or nephew, there a superior relation is brought under an inferior; but where the uncle marrieth his niece, there a superior is made head of an inferior, which is more decent. But that which here is most respected, is not so much the relation of a superior and inferior (for a mistress might marry a servant of the same religion and tribe, as well as a master might marry a maid-servant), but the nearness of blood, which is the same betwixt aunt and nephew as betwixt uncle and niece. So much the Hebrew phrase imports, verse 6, see the text and margin: and therefore it is as unlawful for the father to marry his own daughter as for the mother to marry her own son."

In the very same manner does Dr Hammond also (who was one of the divines nominated to constitute the Westminster Assembly though he never took his place amongst its members) argue this point in his treatise "Of Marrying the Wife's Sister."

Selden was a member of the Westminster Assembly, and took part in many of its debates. The advocates of marriage with a deceased wife's sister claim the authority of his name, and fail not to extol in the highest terms his unrivalled learning. They have searched his works apparently with great care for every passage that might seem to favour their opinion: but they have failed to produce the slightest proof that he expressed any dissent from the general judgment of the Assembly upon the subject in question, however much he differed from most of its members, as is well known, upon other subjects of great importance. It is surely to be esteemed pro-

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bable that Selden was of one mind with the rest of the Assembly upon this subject, unless proof can be adduced that he expressed his dissent, or some passage plainly in support of the other opinion can be quoted from his works. But for aught that appears in any passage which I have seen quoted, or have been able to discover in any of his works, he merely gives, as his great learning so well enabled him, a historic view of the opinions of the Jews and Jewish doctors themselves.* As for signifying his assent to these opinions, no reason appears why he might not as well be cited as an authority concerning the names and marriages of some of Adam's sons and daughters, which he mentions in the same manner, taking particular notice of the difficulty concerning the marriage of the young men with their twin sisters; a mere exhibition of Rabbinical lore, and none whatever of his own opinion or belief.

The members of the Westminster Assembly formed, it appears, their own independent judgment upon this question, and embodied it in their Confession of Faith. We have something more than the mere judgment before us: we have the grounds of it as given by the members of Assembly themselves. Nay, the grounds of that judgment might confidently be inferred from the verses of Scripture that are quoted in proof, which are Lev. xx. 19–21, prohibitions of connection with a *mother's sister* and a *father's sister*, an *uncle's wife*, and a *brother's wife*.

But it was on these very grounds that the same judgment had been previously given by the Reformers of England, whom Mr Wortley and others of his school are accustomed injuriously to represent as in all this the mere tools of Henry VIII. Their reputation in this particular was admirably vindicated by Mr Goulburn in the House of Commons, especially by the citation of a letter of Cranmer, in which the archbishop positively refuses, even upon the solicitation of the king's secretary, Cromwell, to sanction the marriage of an old servant of "the king's highness" with the sister's daughter of his deceased wife, alleging as his reason that such a marriage is contrary to the law of God. And this he proves from Leviticus, where the nephew is prohibited from marrying his aunt. "Likewise," he says, "as the daughter is not there plainly expressed, yet where the son is forbid to marry his mother, it is understood that the daughter may not be married to her father, by cause they be of like degree. Even so it is in this case and many other; for where it is there expressed that the nephew shall not marry his uncle's wife, it must needs be understood that the niece shall not be married unto the aunt's husband, by cause that all is one equality of degree."† And to the like effect had Cranmer previously expressed himself in his Annotations upon Henry VIII.th's Corrections of the Institution of a Christian man.‡

* See Dr Janeway on "Unlawful Marriages;" an answer to "The Puritan," and "Omicron," (New York,) 1844, p. 38–40.

† Letter clxxvii., (Parker Society.)

‡ Annot. xxxvi., (Parker Society, volume just quoted, p. 94.)

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Moreover, after Henry VIII. was dead, and when a blind submission to his pleasure can therefore no longer with any plausibility be alleged, Cranmer formed one of a Commission which was appointed for revising the Ecclesiastical Laws. Amongst the members of that Commission were also Ridley, Coverdale, Hooper, Taylor, Parker, and Latimer, with Peter Martyr, who at that time was resident in England. These Commissioners say in their report :—*

"But this is to be diligently observed in those passages of Leviticus, that all persons within the prohibited degrees are not there expressed by name. For the Holy Spirit lays down evidently and expressly those persons from whom the like distances of the remaining degrees may be easily computed and settled. As, for example, where a mother is not allowed to marry with her son, it follows that a daughter cannot be allowed to be the wife of her father; and, if it is not lawful to marry the wife of thy father's brother, neither can marriage be allowed with the wife of thy mother's brother. Above all, we wish two rules to be attended to, of which one is, that we should understand that those places which are assigned to men are assigned to women, always in equal degrees of proportions and relationships. The second is, that a man and his wife should be considered to have one and the same flesh, and thus, in whatever degree of consanguinity any one stands to another, in the same degree of affinity he stands to the wife, and so conversely. And if we keep ourselves within these limits, we shall not introduce more prohibited degrees than the sacred Scriptures have appointed, and we shall preserve whole and inviolate those degrees concerning which God has given us a commandment. And not only does the rule which we have now laid down apply to lawful matrimony, but has the same force with regard to any unlawful connection."

To the same effect, and upon the same grounds, did Bishop Jewel give his judgment, concluding thus :—

"So likewise in this case, albeit I be not forbidden by plain words to marry my wife's sister, yet am I forbidden so to do by other words, which by exposition are plain enough. For when God commands me I shall not marry my brother's wife, it follows directly by the same that he forbids me to marry my wife's sister. For between one man and two sisters, and one woman and two brothers, is like analogy or proportion, which is my judgment in this case." †

Thus, in the *Dutch Annotations*, or marginal notes of the translators appointed by the National Synod of Dortrecht in the beginning of the 17th century, a work whose value there are excellent evangelical ministers of our country and time who are ready gratefully to attest, it is said on Lev. xviii. 16—"By this law it followeth necessarily, that a woman being married to the one brother, she may not marry the other after the former's decease; and comformably, a man being married to one sister, he may not after her death marry the other." And this continues to be the doctrine and law of the Reformed Church of Holland.

* As quoted by Mr Goulburn, 3d May 1849 (Hansard.)
† Quoted also by Mr Goulburn.

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Thus also we find Calvin in his Commentary, saying—

" . . . . . Uxor quoque patrui vel avunculi pro matre habenda est. Et quanquam non fit expressa eorum mentio ex similitudine tamen judicium facere convenit quid liceat. Diserte hic non vetatur patruus vel avunculus neptem suam ducere in uxorem: sed quum nepoti interdicitur materteræ vel amitæ conjugium, valere debet mutua relatio gradus inferioris ad superiorem. Quod si quis differre contendat, ratione apud Mosen addita refellitur cavillum: dicitur enim, consanguinea patris tui est, vel matris tuæ. Unde sequitur, neptem, si avunculo vel patruo nubat, incestu pollui. . . . . Si retegitur fratris turpitudo, ubi frater ejus viduam ducit, non minus retegitur turpitudo sororis, quum ejus marito post viduitatem nubit altera soror."

It is unnecessary to add quotation to quotation any further. Perhaps too many have been given already; but by these it has been intended not only to exhibit the principles which have really governed the general judgment of the Protestant Church in this most important matter, but also to show what attention was paid to it, and what a consent there has been of minds whose judgment is most worthy of respect. Mr Stuart Wortley's remark, that it is difficult to ascertain whence the prohibition which he so much dislikes was imported into the Westminster Confession of Faith, may now be dismissed as unworthy of any further attention. And the endeavour, by whomsoever made, to represent the Reformers of England as regulating these matters in compliance with the lust-governed caprice of Henry VIII., may be equally dismissed, but not without reference to the illustration which it affords of the practice so common with the advocates of every bad cause, of seizing upon every seeming advantage with an unscrupulosity which truth must always detest, and may afford to disdain.

The 17th verse of the 18th chapter of Leviticus has also an important bearing on the question of marriage with a deceased wife's sister, not particularly noticed in any of the extracts which have just been given from the writings of Reformers and influential Divines of Protestant Churches—"Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they are her near kinswomen: it is wickedness." The argument is derived from the reason annexed to the commandment, "They are her near kinswomen." Indisputably, her sister is also her near kinswoman. And as it most evidently appears from the consideration of the whole passage, that it was not the design of the great Lawgiver to specify every relationship to which his prohibition extended, but only such as should clearly indicate the extent of the prohibition, we must apply this principle to the interpretation of the 17th verse, and we come to the conclusion, that a man may not uncover the nakedness of a woman and her sister: it is wickedness.

The views which have thus been exhibited are simple; the argu-

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ment clear and intelligible. There is no inconsistency, and the highest reverence is displayed for Scripture—not that professed reverence which, in the very fervour of its apparent zeal for the letter, sanctions deeds which the spirit of the law condemns; but that true reverence which, humbly accepting God's Word as the only rule of faith and manners, searches in order to ascertain his mind from his Word. We must now briefly consider the attempts which have been made to destroy this argument. These are various. Some of the objections are hackneyed, and are repeated from time to time with occasional modifications, pretty much as they were repeated and refuted centuries ago; others, sometimes ingenious, and not unfrequently ridiculous, appear to have recently arisen upon the other side of the Atlantic. Some are advanced by almost every advocate of marriage with a deceased wife's sister, and are also common in the mouths of the advocates of other incestuous marriages, though at present it would be more convenient for those who advance them, in this country at least, to forget this; others have acquired a sort of local popularity amongst the class of persons who favour such marriages: but in fact, almost every one seems to justify his opinion by some peculiar and favourite quibble of his own. The general concurrence of so many minds in the adoption of the argument above exhibited, entitles it to the more respectful consideration. But on the other side, there seems no general concurrence except in the rejection of that argument, and of the conclusion to which it leads: for one is found to rest upon the merely ceremonial nature of the law in Leviticus—another upon its abrogation, as a part of the civil polity of the Jews—another refuses to acknowledge that any thing in the Mosaic law is binding upon Christians unless it can be found re-enacted in the New Testament—another does not so much regard re-enactment in the New Testament, but he wants the guidance of the light of nature, or of the light of heathenism—another cares not for inferences, but acknowledges the authority of *express* statutes, even those in Leviticus, and, like Dr Benedict, is ready with a gauging-rod—another would yield to almost any argument in a case of consanguinity, but is satisfied that affinity is a thing of little consequence—another thinks that affinity is worthy of almost as much attention as consanguinity, but believes it to be terminated in respect of his wife's relatives so soon as his wife dies—another points to the Levirate law of Deut. xxv. 5—another tells us that the statutes in Leviticus have no reference to marriage at all, but only to single acts of an incestuous character—another, and it would seem that there are many of this mind in America, holds that a wife is more nearly related to her husband than a husband is to his wife!

There would indeed be an end of the argument from the 18th chapter of Leviticus, if it could be proved that it was a law intended for the Jews alone. And perhaps one of the principal difficulties with which we have now to contend in the discussion of this subject, arises from the prevalence of low and erroneous notions con-

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cerning the authority of the Mosaic laws, and of the Old Testament generally. There is a liberalism in religion which makes very light of the Old Testament, and looks without much dislike upon marriage with the sister or niece of a deceased wife. Dr Cox, an eminent Baptist minister in London, expressed himself as follows on his examination before the Commissioners on the Law of Marriage. Being asked, "With respect to such marriages [with the sister or niece of a deceased wife], are you of opinion that there is any direct prohibition in any part of Scripture?" he said: "Certainly I do not think there is a direct prohibition. There is no prohibition which I should deem of authority in the case, because I do not consider that the Levitical law is an authority for us. I think that belonged to the Jewish dispensation: it was a constitution for the Jewish nation, therefore I should say there is nothing in Scripture expressly to forbid any such marriage." *

To him Calvin shall reply. In his Commentary (on Lev. xviii.) he says:—

"Itaque præposterum acumen affectant, quidam in Scriptura male exercitati, dum jactant, Lege abrogata solutum esse vinculum quo suos adstrinxit Moses. Neque enim simpliciter politicam esse hanc doctrinam, vel debere censeri, ex præfatione nuper exposita colligitur . . . . . In summa, prohibitio incestuum de qua nunc agitur, minime est ex legum numero quæ pro temporum et locorum circumstantiis abrogari solent . . . . . Si doctrina hæc vel in unius populi utilitate, vel in usu certi temporis, vel in præsenti necessitate, vel in aliis circumstantiis fundata esset: abrogari possent leges inde elicitæ novis de causis . . . . . Si objicitur, non prohiberi nos in Novo Testamento a talibus conjugiis: respondeo neque inter patrem et filiam conjugium vetari, neque matri interdici ne filio suo nubat: an ideo promiscue licebit consanguineis inter se coire?"

It is strange that any one should be able to read the introductory or the concluding verses of the chapter which contains this law, and yet maintain the law to have been ceremonial. Was that a ceremonial law of the Jews, for the transgression of which the Canaanites were judicially exterminated? or are those transgressions of ceremonial laws, which are described as abominations and abominable customs, defiling a land?

Nor does it seem less strange that any one should be able to read the law itself, and yet maintain it to be ceremonial. It does not possess one feature proper to a ceremonial law. Would men have us to believe that restraint from incest in all its grossest forms, was, like the restraint from particular kinds of food, a mere ceremonial distinction of the Jews? Apply this principle, and to what does it conduct us? The first step is Mr Wortley's Bill;—but the next, and the last—what are they?

Strange consequences inevitably follow from the assumption, that the Mosaic law regarding the prohibited degrees of marriage was

* Minutes of Evidence, p. 77.

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intended for the Jews alone. Whether you get quit of it by pronouncing it ceremonial, or municipal (as some of its adversaries prefer to esteem it), or by a sweeping obliteration of all Old Testament laws excepting the Decalogue, or not excepting the Decalogue, —in whatever way you set aside the obligation of this law, you leave us without any law of this nature binding upon us. We have none in the Bible,—none from God, except what may be found in the reference made to the sin of incest by Paul in 1 Cor. v. 1; and that specifies only the case of a man's having his father's wife. A strange conclusion! for thus we would be left to our own discretion as to the limits to which the law thus given us extended,—if, indeed, it were yet possible to prove, upon the principles assumed, that it extended beyond that single relationship designated by the words of the apostle. And so, father and daughter, brother and sister, grandson and grandmother, might intermarry at pleasure, or would be restrained only by some law found in nature but not found in revelation. There are minds to which this presents a pleasing view of Christian liberty; but the worst infidel could scarcely have devised a greater reproach upon the name. It is easy for men to flatter themselves, that the bounds which they now deem fit and proper would never be passed. But the Supreme Court of Massachusetts has lately decided, that a man may lawfully marry his step-daughter.* And why should this be the final limit, any more than that which Mr Wortley would place? His limit could not long be kept. It is a limit of compromise, and the triumph gained by those who stipulated for this compromise to-day, would embolden them to attempt new conquests to-morrow. And men would be more consistent than to keep such a limit. It would soon be found that the principle which carried them this length, would carry them farther. From the Apostle Paul we learn of what fancied liberty Christians made a foolish and wicked boast at Corinth.

The verse of the New Testament to which reference has just been made, is, however, of great importance in this question. "It is reported commonly, that there is fornication (πορνεία) among you, and such fornication as is not so much as named amongst the Gentiles, that one should have his father's wife." The word πορνεία is here obviously used in its most extensive sense, and the form of iniquity here more particularly mentioned is incest. Now, this verse may be regarded as a recognition of the ancient law upon this subject,—the law which the Corinthian converts might read in the Scriptures of the Old Testament. If we regard it as a mere recognition of the law of nature, of instincts and feelings implanted in the heart of man, then all, as we have seen, is involved in uncertainty; the limits are not accurately defined: passion mingles with and overpowers the better feelings which ought to guide the conduct and the conscience; and the light, originally feeble in fallen man, is thus further obscured. But, if we regard it as a recognition of the ancient written law, then

* Janeway, p. 178.

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we have still the ancient precision which marked that revelation of the will of God.

There is, however, also in this verse a recognition of the law of nature, or of the instincts and feelings, according to which the consciences, even of the heathen, accuse or else excuse one another. It is not necessary at present to go into any inquiry how far these, as they existed amongst the heathen, were derived from tradition. Whatever their source, they existed, and their existence was recognised by the apostle. But it is more to be acknowledged as a general fact than examined in minute detail. Nothing can be more unreasonable than to bring the *particular* question of marriage with a deceased wife's sister or niece to the test of heathen practice and opinion.* But the apostle's general reference to the Gentiles proves plainly that the law whose existence he recognised, was moral, and not ceremonial, nor in any way peculiar to the Jewish people.

"The moral law is summarily comprehended in the Ten Commandments." "The sum of the Ten Commandments is, to love the Lord our God with all our heart, with all our soul, with all our strength, and with all our mind; and our neighbour as ourselves." These two precepts or principles expand into the Ten Commandments. Yet who could have thus unfolded these principles but God himself, even as he alone unfolds the seed into a plant, the bud into a flower? The Ten Commandments also require some further expansion, that we may better understand their nature, their adaptation to our nature, and their application to our circumstances. This has been done both in the Old Testament and in the New, by Him whose commandments they are, and whose authority binds us to obedience. What He has thus done we may behold with intelligent admiration, but we could not have done it.

There has been no change in the moral law. Where change of circumstances has occurred, the application of general precepts or principles has necessarily undergone a corresponding change. The peculiarities of the Jewish constitution, civil and religious, have passed away; but those things in the law of Moses which did not relate to any of these peculiarities, must be deemed an exposition of the will of God concerning us as much as the Jews.

Our Lord said in his sermon on the Mount, "Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfil. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled. Whosoever, therefore, shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven; but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven."† This is surely not an abrogation of Old Testament laws, but the

* See the "New England Puritan," and Janeway, p. 86.
† Matt. v. 17–19.

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contrary. If it be said that the fulfilment here spoken of, is the fulfilment by the obedience and death of Christ himself, I reply, that this does not exhaust the meaning of the passage, nor consist with the evident reference to the future—the dispensation then commencing. And one might as well reason from this passage against the expectation of any future fulfilment of Old Testament prophecies, as against the obligation, in our times, of Old Testament laws. It is true, certain prophecies were fulfilled in the birth, and life, and death of Christ; but it is also true that certain other prophecies still await their fulfilment. In like manner, certain laws were fulfilled in Christ; so that, in accordance with their own very nature, they ceased, just as the prophecies did which were fulfilled in him. Such was the law of the passover, and the whole ceremonial law of the Jews. But the moral law was of a different nature, and, according to its nature, it remained binding in every precept and in every particular.

The language of Matthew Henry upon this subject is remarkably clear and decided: and he may be regarded as expressing, not only his own views, but those of the Nonconformist body of his time. In his Commentary on Matt. v. 17–20, he says, "The rule which Christ came to establish exactly agreed with the Scriptures of the *Old Testament*, here called *the law and the prophets*. The prophets were commentators upon the law, and both together made up that rule of faith and practice which Christ found upon the throne in the Jewish Church, and here he keeps it on the throne. He protests against the thought of cancelling and weakening the *Old Testament*. . . . . As Bishop Tillotson expresses it, Christ did not make *void*, but make *good*, the ceremonial law, and manifested himself to be the substance of all those shadows."

Dr Chalmers also, in his "Daily Scripture Readings," in the paragraph immediately preceding that which has been so much mentioned in this controversy, speaks very plainly of the authority of the Levitical law. "The authority of God, here solemnly pronounced, will make every godly man, whatever the strength or weakness of his natural sentiments may be, to abstain from the intercourse which is so expressly assigned to be criminal and displeasing to our great Lawgiver in heaven." *

The opposite view is capable of being stated in such a way as to make it very offensive to a vast number of Christian minds. It has been so stated by one who did not intend any such effect; and in his words I give it:—

"As the Jewish code, *as a code*, expired by its own limitations at the coming of Christ, none of its precepts have any force, *derived from the cir-*

* The Rev. Joseph Butterworth Owen, incumbent of St Mary's, Bilston, a witness examined before the Commission, and in favour of the legalization of marriage with a deceased wife's sister, said on his examination, "I was pleased to observe that Dr Chalmers, who is a great authority upon matters of interpretation, in his Commentary on Leviticus, just published, gives it as his opinion, that it is not binding upon Christians." Does Mr Owen know what he meant by these extraordinary words? Let him look again to Dr Chalmers' *Commentary* on Lev. xviii. 1–10.

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cumstances that they stand in that code. The force which any of its precepts has, comes from the inherent justice and adaptedness seen to reside in those precepts. They are not repealed, simply because God cannot repeal what is intrinsically right. Yet as the code of which they make a part is as a code repealed, these single and unrepealable precepts stand on the same ground with similar principles of natural justice found in the laws of any nation foreign to us. They are binding on us because they are right, and not because the legislators of a foreign nation enacted them. The statutes of the Hebrew code are the municipal laws given by God, acting as the legislator of a nation to us foreign, who was not at the time legislating for us; and his precepts in that capacity bear as much and no more authority over us than do those of Solon, *so far as both equally conform to principles of essential right.* Those of each are binding on us *because they are right*, and not because the author of the code exerts his authority over us."*

It is not altogether unpleasant to find such a cause advocated in such a way; nor is it very wonderful that a person capable of enunciating such views should employ himself in endeavouring to remove any prohibition of the kind now under consideration.

But perhaps the most extraordinary attempt which was ever made to set aside the Levitical law is that of the Rev. Henry Tuthill, "Minister of Mountmelick" in Ireland, in a letter to the Secretary of the Marriage Commission, "giving his reply" on the subject of "supposed prohibited degrees." Mr Tuthill, it is right to observe, differs in his opinion from the ministers of the Irish Church generally, who have come forward very unanimously to oppose the proposed change of the law. "The apostle's observation on the subject," says Mr Tuthill, "sets, I consider, the Levitical law at rest, in 1 Cor. vii. 39, 'The wife, if her husband be dead, is at liberty to be married to whom she will, only in the Lord;' and again, in Rom. vii. 2, 'If the husband be dead, she is loosed *from the law* of her husband.'"† Mr Tuthill, therefore, must understand the apostle to mean, that the woman whose husband is dead is at liberty to marry his father or her own. This would certainly be to set the Levitical law at rest. But Mr Tuthill's argument goes this length, or it perishes.

But a very miserable objection falls now to be noticed; one, however, which has been often repeated. It is perhaps one of the first to present itself to the meanest understandings, and perhaps as unworthy as any of being retained in an intelligent mind. It is therefore peculiarly painful to find it urged by Archbishop Whately, and urged as if he thought it enough of itself to put an end to every argument from the law of Moses. He states it, moreover, in a way that is as offensive as the objection itself is weak. He has given the benefit of his name and influence to the parties engaged in the present agitation. In the following sentence he disposes of the Scripture argument:—

"As for the allegations from the Levitical law, if any one brings them forward in sincerity, he should be prepared to advocate adherence to it in

* The "New England Puritan." † Report, &c., Appendix, No. 40.

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all points alike—among others, the compulsory marriage of a brother with his deceased brother's widow."

Yet it might have occurred to him and others who have used this objection, that the circumstances have passed away with reference to which, and upon account of which, that peculiar law was given to the Jews, and that it was only in certain cases, under circumstances arising out of the peculiarities of the Jewish constitution, that marriage with a deceased brother's widow was even permitted. In every other case it was prohibited in the very strongest terms. "Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness."* "And if a man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness; they shall be childless."† The law referred to circumstances which can never possibly arise any more.

But reference is sometimes made to the law of Deut. xxv. 5, in another and a very different way. It is argued, that if there were any essential immorality in the intermarriages of brothers-in-law with their sisters-in-law, God would never have given such a commandment. Answer has been made, and well made, by the citation of these words of the apostle, "Sin is the transgression of the law."‡ He who knew what was best for men under all circumstances in which men were ever to be placed, whose will is supreme and his authority indisputable, has declared his will in a general commandment; he has declared it also in a special, exceptive statute, relative to the circumstances of a peculiar and temporary economy. Is it reasonably to be inferred from this exceptive provision for very peculiar circumstances, that the disregard of the general commandment, under circumstances wholly different, and to which the exceptive statute does not at all apply, is otherwise than very displeasing to the great Lawgiver? The Jew who married his brother's widow under the circumstances specified in Deut. xxv. 5, did what was right, and obeyed the commandment of his God; but the Jew who married his brother's widow when these were not the circumstances —in particular, when his brother had not died without issue—did what was wrong, and what God had strongly condemned as "an unclean thing." God best knew what suited the nature of man, his creature whom he had made. And as we ought to repose undoubting confidence in his wisdom with regard to the general law, so we ought also with regard to the special exceptive law. In the special statute as well as in the general law, there must have been a perfect adaptation to the circumstances in which God had placed his creatures, whether we may be able to see the moral beauty either of the one or of the other. The exceptive statute is very remarkable, and strongly shows what importance was attached to the maintenance of the tribes and families of Israel in their distinct integrity, with a view to that which was indeed the great purpose of the whole Jewish

* Lev. xviii. 16. † Lev. xx. 21. ‡ Janeway on "Unlawful Marriages," 152.

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economy; but it does not suggest a reasonable doubt as to the gross immorality of any connection with a brother's widow under any circumstances, save those peculiar ones for which it provided.

So Christians may be expected to reason. Nor will it seem strange to them that the great Lawgiver should have legislated in such a manner as to indicate the very great importance which he attached to the maintenance of the Jewish tribes and families in their integrity, connected as this was with the great scheme of man's salvation, and forming an important link in the evidence upon which we believe in the greatest events of all time, or it may be said of all eternity. Benjamin Franklin was, perhaps, too consistent with himself, however, when he said, that if any law were to be made relating to marriages with the sisters of deceased wives, "it should rather be to enjoin than to forbid them . . . . . the reason being rather stronger than that given for the Jewish law, which enjoined the widow to marry the brother of a former husband, where there were no children, viz., that children might be produced who should bear the name of a deceased brother: it being more apparently necessary to take care of the education of a sister's children already existing, than to procure the existence of children merely that they might keep up the name of a brother." Something may perhaps be learned of the real character of the present agitation in England, from the fact that Franklin's opinion, thus expressed, has been quoted as of high authority, and prominently put forward in order to influence directly a most intelligent class of minds.*

But the objection derived from the Levirate† law is much akin to one which is also frequently urged, founded upon the intermarriages of very near relations in the earliest ages of the world, and especially the marriages of brothers and sisters with one another amongst the immediate offspring of Adam. Jeremy Taylor, in his "Doctor Dubitantium"—a work which has been quoted in America as affording "important testimony" on more points than one connected with the present subject, and which was also mentioned in course of the recent debate in the British House of Commons as of very high authority—insists pretty strongly upon this point, and proceeds to make refined distinctions between prime and secondary laws of nature: maintaining that "nothing else is against the prime laws of nature but a conjunction in the right ascending and descending line"—whilst of the marriage of brothers and sisters he says plainly, that "the prohibition is not in all the laws of Christ, therefore it cannot be accounted against the prime law of nature, of which that is a perfect system,"‡ although he condemns it strongly, and grants it to be against natural reason. After this, and seeing also that he denies the obligation of the Levitical statutes, it will not seem wonderful that he is by no means disposed to extend the

* "Law Magazine," May 1839.
† From the Latin *levir*, a brother-in-law.
‡ "Doctor Dubitantium," Book ii. ch. 2, Rule 3, § 24.

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prohibitory law so far as the strict expounders of these statutes would. It may readily be admitted that amongst the divine laws some may be instanced, such that it is impossible for us to imagine any circumstances in which any exception or dispensation could be made; whilst others, intended for society as society generally exists, may have been inapplicable when society had not attained that form and constitution which it now has, and ever must have to the end of the world. But otherwise there is no distinction admissible in this matter betwixt prime and secondary laws of nature. Taylor's principles, legitimately carried out, would afford sanction to almost as much impurity as men might choose at any time to reckon pure. His reputation for learning and for almost unrivalled eloquence, has probably led many to look with an undue reverence to his "Doctor Dubitantium," to which a name otherwise great has imparted an influence it never of itself could have acquired; others may have made it their text-book, because out of the heterogeneous mass they could extract things agreeable to their baser propensities.

It is generally with the view of setting aside the authority of the Levitical statutes, and of showing that they are not to be accepted as interpretations of the seventh commandment, regulating its application to us and to the whole human race under all circumstances, the occurrence of which need enter into our calculations, that such arguments are brought forward as those of Jeremy Taylor from the intermarriages of the immediate offspring of Adam, or those of the "New England Puritan" from the Levirate law; arguments which, indeed, if antiquity could give them value, might be referred to far more ancient authors. It is with this view that it has been attempted to prove that incest is merely *malum prohibitum*, and not *malum in se*,* and that the prohibition of it rests upon a *jus merè positivum*. But it is very evident that the whole force and effect of such reasonings is really to abate from the odiousness of incest, and to diminish that detestation which naturally arises in the mind at the very utterance of the name.

The same remark applies to the care which is so often taken to extenuate the guilt of certain forms of the crime, especially of those which Mr Wortley's Bill, if it should unhappily be passed into a law, would legalize. It may indeed be granted, that, to use the words of a writer in the *Princeton Review*, "it is to confound all our ideas of right and wrong, to shock the moral convictions of all sane men, to maintain that there is no difference between marriages within the prohibited degrees, when those degrees extend from a niece to a parent." † All this may be granted, although perhaps it could hardly have been expressed in stronger terms; but it is utterly unfair to charge those who hold that marriage with a deceased wife's sister or niece is incest, with maintaining that the crime is therefore as gross and monstrous as carnal connection with a sister

* See Dwight, p. 128, &c.

† *Princeton Review*, July 1847 (on the M'Queen case).

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or a daughter. Even without regulating our judgment exactly by Dr Benedict's gauging-rod, we may discern a difference here (yet we might wish that it were never necessary to consider it); and the argument, sometimes painfully set forth from the different punishments decreed against different species of incest in the 20th chapter of Leviticus, is very useless. But this difference is sometimes dwelt upon with a view to extenuate certain forms of the crime: whilst, instead of labouring to show that this or that kind of it is not so bad as those which all agree to reckon the worst, it might be more to the purpose to show how bad these also are.

To denounce marriage with a deceased wife's sister as one of the abominations of the Canaanites, is sometimes also represented as an undue severity towards the culprits, if that name they must bear. And we are represented as making no distinction betwixt this and other forms of Canaanitish crime. Surely we may be willing to make all the distinction that there is; but our opponents make more distinction than there is. Nobody alleges that it was for this particular abomination that the Canaanites were exterminated; nobody has taken upon him to say that their land would have spued them out for this, if this had been all their offence; though, in these days of greater light, greater guilt may infer heavier judgment. But it is alleged that this was one of a class of crimes of which they were habitually guilty, and all of which the Holy One has emphatically pronounced abominable. Mr Wortley, in his Letter to Principal Macfarlan, goes the length of making it an argument in favour of his chosen interpretation of Lev. xviii. 18, and the other Levitical statutes, that "any other interpretation of these passages must necessarily rest on the assumption, that marriage with a wife's sister was one of the '*abominations*' of the Canaanites, against which the anathemas of the 18th chapter of Leviticus were directed; and it has been so argued," he says, "by some of the High Churchmen of the Tractarian school in England." Here he exhibits a little ingenuity in seeming perfectly ignorant that any, except "some of the High Churchmen of the Tractarian school in England," have regarded marriage with a deceased wife's sister as one of the Canaanitish abominations. Perhaps he imagined that, by representing this opinion as belonging to the Puseyites, he might create a prejudice against it in the minds of Scottish Presbyterians. He paid no compliment, then, to the Presbyterian intellect; he gave us little credit for independent thinking or study of the Scriptures. The indiscriminate rejection of every opinion held by Puseyites, or Papists, or any other party, however much in error, would not go far towards the upbuilding of a system of religious truth. It was not by any such process that our forefathers arrived at their Confession of Faith. But Mr Wortley has a little subsidiary argument at hand to overthrow the "assumption," which he seems to have fancied so peculiar to the most extravagant Tractarianism. "This is a supposition," he goes on to say, "which, as it humbly seems to me,

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no ingenuity of man can reconcile with the fact recorded in Holy Writ, that Jacob, in whom was preserved the seed of Abraham, became the husband of two sisters without necessity, and without reproof from God or reproach from man, and that through one of these sisters the genealogy of our blessed Saviour himself is traced." He was incautious in venturing upon this argument. He has forgotten, in his haste, his inability of proving that there was no reproof from God. On the same ground, he might as well justify the daughters of Lot in their incest with their father, or Lot himself in his drunkenness. The Bible records the facts, but we read nothing of reproach from man or reproof from God; although the careful student might find (and in Jacob's case also) evidence, in the course of God's providence, that the things done were displeasing in his sight. And Mr Wortley is perhaps aware, though he must have forgotten it when he wrote, that the genealogy of our Lord is traced through the iniquitous connection of Judah and Tamar. He will find in it the name also of Rahab the harlot, and of others who were stained with gross crimes. Nay, our Lord was, in his human nature, the kinsman of sinners, and the descendant of sinners; and thus the very chief of sinners are the more encouraged to look to him for their salvation. The life even of Jacob was not free of other stains besides that of his marriage with the two daughters of Laban. In that case, however, he might have urged a plea of necessity stronger than any British or American widower has ever yet been able to make out in favour of his marriage with his sister-in-law. But Mr Wortley's argument, which, it is only fair to admit, he was by no means the first to use, is either good for nothing, or it is of more force than he means us to perceive, and justifies polygamy.

But we have not yet done with the shifts and expedients which are attempted, in order to get rid of the law in the 18th chapter of Leviticus.

Much labour has been expended to prove that it does not relate to marriage at all. If this were really the case, the Christian Church would be without any prohibition of any marriage amongst the nearest kindred, except in the case of a man and his father's wife; nay, even the apostle's condemnation of this would, by parity of reasoning, be set aside, as relating to a "single act of an incestuous character;" and this interpretation has also found its advocates.

Moreover, it would result from this theory, that *the Jews* were without any law prohibiting the intermarriages of the nearest kindred. "The intercourse forbidden in these texts is the sin of uncleanness, and not that of marriage," says the "New England Puritan," whom, for reasons of mere convenience, I prefer to quote; the same views, expressed in similar or different terms being very prevalent amongst the advocates of marriage with the sister or niece of a deceased wife, on this as well as on the other side of the Atlantic. "We can see no room to doubt," he likewise says, "that the terms

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used in these statutes are such as necessarily carry the idea of a disgraceful and criminal connection: and that they are such terms as God would not have used, if he were fixing the limits of the degrees of relationship within which marriage might not be contracted." But if all this were true, it would follow that God has given no law, either to Jews or Gentiles, under one or other dispensation, fixing the limits of relationship within which marriage may not be contracted:—a very startling conclusion, and one which, if it should be generally admitted by mankind, would soon be attended by consequences whose magnitude all would be compelled to acknowledge.

But what is the process by which it is attempted to bring us to this conclusion, or to the adoption of the opinion in which this is so evidently involved? It consists chiefly of a critical examination of the terms employed in the statutes.

It is urged, that the word *wife* would not have been employed if a *widow* had been intended; and it is taken for granted, that a widow must needs have been intended if the prohibition of marriage had been the intention of the Lawgiver. But this ought not to be taken for granted; and one reason for the use of a *more general* term instead of the term *widow*, may be found in the intention of the Lawgiver to include a class of cases which were certainly of frequent occurrence amongst the Jews, those of *divorced wives*. It is worthy of observation also, that in the Hebrew language, relationships, such as we often express by the terms daughter-in-law, sister-in-law, &c., were usually expressed by such phraseology as we find in the Levitical statutes, son's wife, brother's wife, &c. Moreover, it being the intention of a law such as that in Lev. xviii. 6–17, to stamp with the uttermost infamy every sort of connection betwixt parties within certain degrees of relationship, the use of the word widow would not have served the purpose. It would not have warranted the conclusion which is warranted by the statutes as expressed, although very far from being all which is meant in them, that a man who has carnal connection with his son's or his brother's wife during her husband's lifetime is guilty of a still more heinous crime than that of adultery with another woman. The pale of the domestic sanctuary would not have been set up.

But it is vainly contended that the word wife, as used in these statutes, does not properly *include* the signification of the word widow. Ruth is in one place designated "the wife of the dead."* And Abigail is described as the wife of Nabal the Carmelite, not only after Nabal's death, but after her marriage with David. "And David's two wives were taken captives, Ahinoam the Jezreelitess, and Abigail the wife of Nabal the Carmelite,"† אֲבִיגַיִל אֵשֶׁת נָבָל הַכַּרְמְלִי. The word is the same that is used in the controverted passages of Leviticus. The primary meaning of the word, moreover, is not *wife*, but *woman*. And in Lev. xx. 21, the word take, לָקַח, is used—

* Ruth iv. 5. † 1 Sam. xxx. 5.

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the ordinary word for marriage,*—"And if a man shall take his brother's wife, it is an unclean thing." The expressions in Lev. xx. 17–21, are remarkably varied.

However, if driven from this, the advocates of marriage with a deceased wife's sister, and other marriages not so frequently mentioned, have still another refuge, and another. They are not easily to be driven off the field.

Their next position is in a criticism on the phrase, גָּלָה עֶרְוָה *to uncover nakedness*, so frequently used in Lev. xviii. 6–17, or rather on the word, עֶרְוָה; for the consideration of the phrase is avoided, and great pains are taken to affix to the word a signification inconsistent with the idea, that it can be used with any reference to marriage. It is alleged to mean something base, and therefore to be applicable only to "criminal commerce, which involves shame and dishonour;" and in its prevailing use to import "uncleanness, and that disgrace which is inflicted by an act of lewdness," and the Greek ἀσχημοσυνη is triumphantly quoted from the Septuagint. If all this were correct, it would be nothing to the purpose; the question being, whether the connections, with reference to which it is employed in these statutes, are not such as no form of marriage can sanctify, and such as merit every reproachful epithet. But it is not correct; the word עֶרְוָה merely signifies nakedness, and is used in that sense where no reference is made to any thing unlawful, nor to any thing human; metaphorically, because of its frequent application to human beings in the way in which it is used in Lev. xviii. (exactly according to our ordinary English translation), it comes to signify whatever is shameful or ought to be concealed; but the instances even of this metaphorical use will not be found to warrant the opinion, that in itself this word could suggest the idea of lewdness or criminality. In connection with גָּלָה, however, as it is found in the passage under consideration, it forms a phrase of precise and definite signification, translated in our Bible with a verbal exactness which in this case perfectly conveys to every ordinary mind the whole sense of the original. And if the substantive עֶרְוָה were here to be taken in its most metaphorical signification, the verb גָּלָה must needs be dismissed as of no signification whatever, or some totally new interpretation must be found for the whole law.

There is no room for doubting that the law in question was always regarded by the Jews as relating to marriage; and some of them appear to have limited it too exclusively to marriage, inventing distinctions more consistent with its letter than with its spirit.†

It is common for those who advocate marriage with a deceased wife's sister, to make light of affinity as a bond relationship. It is too obvious, however, to be easily denied, when the 18th chapter of Leviticus is under consideration, that relationships of affinity are

* As in Latin, *ducere uxorem*.

† As Rabbi Solomon on Lev. xviii. 17. See *Critici Sacri*.

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there mentioned as well as those of consanguinity, and that no visible distinction is made betwixt the one and the other. But the reply is often made to every allegation of the Levitical statutes, that affinity is only to be regarded as subsisting during the lifetime of both the parties by whose marriage it was constituted; so that a man is near of kin to his uncle's wife whilst his uncle lives, but not after his uncle is dead; and near of kin to his wife's mother or sister whilst his wife lives, but not after she is dead. It follows from this view of the subject, that any connection with a wife's sister would be not merely adulterous, but incestuous, during the lifetime of the wife; but that by her death a complete changed is effected, and marriage becomes lawful. Greater familiarity might be allowed during the wife's lifetime with her sister than with another female, because of her being as a sister, or at least a very near relative, whilst immediately on the wife's death, she must become as a stranger. Yet, let it be asked, could all the former intimacy be forgotten, and leave no effect whatever? or could the possible change of circumstances be forgotten, whilst the relationship and the intimacy subsisted? The error, which at first seems comparatively small, expands as it is viewed in its bearings and its consequences. Nay, if this view were just, it would not only be lawful to marry the sister, but the daughter, or the mother of a deceased wife, or the widow of a father, according to the custom of some of the most brutalized heathen nations.

In support of this opinion, however, it is customary to employ the argument which has been already considered from the use of the word *wife* in the Levitical law. Of this nothing more needs to be said.

But another argument has also been employed, more subtle and ingenious, and one which seeks to connect itself with higher views on religious subjects generally, than are usually found in connection with an opinion favourable to marriage with the sister of a deceased wife. Marriage, it is said, and truly, is the ordinance of God, a mysterious emblem of the spiritual union betwixt Christ and his Church. It is a relationship dependent not upon the mere will or law of man, but upon the efficacy of God's ordinance, by which "they twain become one flesh." But when a marriage is dissolved by death, or by a divorce according to God's Word, the efficacy of the ordinance in respect of these parties ceases; they are one flesh no longer, and therefore every relationship of affinity arising out of their union is at an end. This statement does full justice, I believe, to an argument which is apt to become evanescent whilst one deals with it; and which seems worthy to be described as altogether too exquisite, the very ultraism of spiritualization. It is vexatious to be invited up into a region more elevated than seems entirely congenial for creatures of flesh and blood, in order merely that we may descend again to our ordinary sphere, and find a greater license there for carnal indulgence. It is indeed a very important truth, that marriage depends upon God's ordinance, and is constituted by the efficacy of

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that ordinance. It is another very important truth, that marriage is an emblem of the union betwixt Christ and his Church; and, notwithstanding the mysteriousness which belongs to the subject, it is delightful to meditate upon this truth—both because of the view which it gives us of the close and affectionate fellowship subsisting betwixt Christ and his Church—and because of the view which it gives us of the relation of husband and wife, the holier light which it sheds around marriage, and which it diffuses over every domestic scene. But it seems strange that any one should think it proper to view marriage in this light or aspect alone. Taking Scripture for our guide, we do not find the ordinance of marriage to have been intended merely for the purpose of illustrating that union which subsists betwixt Christ and his Church. Granting that marriage is constituted in virtue of God's ordinance by the mere contract of the parties, we must not forget the objects contemplated in this contract, to which it seems clear enough that the ordinance of God likewise has respect. "The peculiar characteristic of marriage consists," says Olshausen, "in there being between the truly married man and woman not only ἓν πνεύμα and μία ψυχή (which is found also in other kinds of high relations), but also σὰρξ μία." * It is surely a ridiculous refinement to dismiss such considerations altogether, and to treat the subject of marriage as if it had no other connection with any common earthly interest than the sacrament of Baptism or the Lord's Supper may be said to have. Nay, it may well be questioned whether, by thus attempting to invest it exclusively with its highest and most spiritual character, we do not run some risk of finding that also evanish. For it might be shown that the highest character and purpose of marriage are dependent upon its ordinary character, and its inferior yet primary purposes.

And to all that may be said about the dissolution of relationships of affinity by the dissolution of the marriage tie, when it is dissolved either by death or by lawful divorce, there is one reply which it is not easy to evade. The affinity may be referred to facts of a kind to which, as in effect has just been said, the ordinance of God itself must be regarded as having reference. And these facts are unchangeable. The survivor of the two human beings who were connected by that marriage which death has now dissolved, is still the same *person* who contracted it. The subject is one which it is particularly unpleasant to pursue: † but it brings us to what may well be termed revolting features in the marriages which it is now proposed to legalize. From such reflections one turns with astonishment to the approbation of such marriages, which has in some quarters been expressed—with horror to the thought of their becoming frequent in our country.

It is worthy of consideration also, whether the opinion that affinity is a perfectly transient thing, which terminates as to all a wife's

* Olshausen on the Gospels (Matt. xix. 4–6), translated by Mr Brown.
† See Dwight's "Hebrew Wife," p. 60.

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or a husband's kindred, whenever a wife or a husband dies, does not necessarily involve the entertainment of light views concerning marriage. And, under whatever specious disguise of refined spirituality or superlative morality these may be concealed, there can be no doubt that they tend to all dissoluteness. Their effects may be noted in the history of ancient Rome, in the period whose manners the satirist portrays—

"Sic fiunt octo mariti,
Quinque per autumnos;" *

in that of modern France; and in the "jumping over the broomstick," which marks the deep degradation of so many railway labourers and others in England.

We have seen something now of the torturing to which this passage of Scripture has been subjected, in order to make it give forth a verdict favourable to the gratification of base passion. This variety of ingenious devices, all directed to one object, might of itself create suspicion, more especially when the argument is manifestly not on the side of restraint, but of indulgence. We have not yet seen all. We might follow one acute gentleman in an attempt to show that the relationship to a wife's brother's wife, and not that to a wife's sister, is, properly speaking, of the same degree with that to a brother's wife; although, in the case of a wife's brother's wife, there are two successive links of affinity, and in the other cases only one. We might follow another, whom it appears that many have been fain to follow, and senates and tribunals in America have adopted as their guide, in an elaborate argument to establish the propositions—That a wife is more nearly related to her husband than the husband is to the wife, and that the wife is *absorbed* in her husband, so that her previous relationships cease. But when Mr Stuart Wortley, or his friends, transplant these from the other side of the Atlantic, it will be soon enough to attempt a serious refutation of them. Meanwhile, let the mention of them show to what desperate extremities the advocates of an evil cause are reduced; or rather, to what arguments men in a frenzy of passion will resort, and what pretexts will be seized by the unprincipled and revolutionary.

I had almost omitted to allude to another argument in high favour with some of those who take Mr Wortley's side. The law in Leviticus was framed, they say, to prohibit such marriages of relatives in superior with those in inferior relations as would destroy the natural subordination. Thus the nephew may not marry his aunt; but there is no prohibition of the marriage of uncle and niece. This is a view of the subject very prevalent in Germany. It seems to require a peculiar philosophic constitution of mind. However, it would lead to the approval not only of the marriage of an uncle with his niece, but also of a father with his daughter.

* Juv. vi. 230.

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Nothing more than a mere allusion is now requisite to the other passages of Scripture which relate to the same subject with Lev. xviii. 6–17.

The first of these is Lev. xx. 11–14, 17–21, a passage which seems more particularly intended to direct the judicial treatment of persons guilty of the crimes whose heinousness the previous law had declared.

The second is a brief repetition in Deut. xxii. 30; mention being made only of one of the most monstrous forms of the crime, yet one of the commonest amongst the nations upon whom Israel was commissioned to execute the vengeance of the Lord.

The third is in Deut. xxvii. 20, 22, 23, in which, amongst the curses from Mount Ebal, we find a remarkably large proportion directed against the different forms of this crime. And it is worthy of notice, that of the relationships specified, two out of three are relationships of affinity.

Allusions may also be found in the prophets; and these not such as to countenance the idea that the law was merely ceremonial, or that a very high degree of moral turpitude does not pertain to the offence.

The words of the apostle in 1 Cor. v. 1, have already been sufficiently noticed.

So much, then, for the Scripture argument—the argument which of all others is of infinitely greatest concernment in this question. It may well be admitted, as Mr Wortley insists,* that it is not for man to legislate in a matter like this, if God has not legislated. Nothing but mischief, immorality, and misery can result from any attempt to place marriage under any other restraints than those which are perfectly warranted by God's Word. It is man's best wisdom to trust in the wisdom of God; and those who profess their unacquaintance with the Scripture argument, but maintain that good policy requires the prohibition of marriage with the sister or niece of a deceased wife, are far from standing upon solid ground. But it ought also to be remarked, that the consequences of breaking down by human legislation the barriers which God in his law has placed, are even more mischievous than those arising from additional restrictions. That a proper attention to the social aspects of this question confirms the Scripture argument, is what a very brief attempt shall presently be made to show. But it is only as a secondary and confirmatory argument that this appears admissible; and it is much to be regretted that the Commissioners on the Marriage Law have reversed this proper order, and treated the Scripture argument, in their Report, with surprising indifference.

Perhaps this is the proper place for adverting to an argument employed by Mr Wortley, both in Parliament and in his Letter to Principal Macfarlan—an attempt which indeed has been often made by the supporters of the same cause—to assign a Popish origin to the prohibition of which they desire the removal. They seem to hope

* Speech of February 22, 1849. Hansard.

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that they may enlist Protestant feeling or prejudice upon their side; and there appears some reason for thinking that they have not been altogether disappointed. But otherwise their attempt is not more successful than that by which the same origin is sought for the doctrine of the Trinity. By what arguments the Reformers of England and other countries vindicated the prohibition in question has already been shown; it is therefore unnecessary to attempt any further refutation of the idle assertion that it had its origin in Popery. No man has yet attempted to point out any thing Popish in these arguments; and it is miserable trifling with a serious subject, and with the understandings of sane men, to remind us (as is often done) of the Popish extension of prohibition to many other degrees—the "money-net" of Rome, the penalties inflicted upon fourth cousins for marriage without dispensation, the figment of spiritual affinities, and the like. It might occur to those who write or speak in this fashion, that if the Reformers had blindly followed an ecclesiastical tradition, they would not have drawn such a line of distinction where ecclesiastical tradition drew no line whatever, condemning Rome not only for her occasional toleration of marriages prohibited in the law of God, but also for her prohibition of marriages perfectly agreeable to that law.

It may be proper, however, to advert in this place likewise to the origin of the movement by which the pale generally set up at the period of the Reformation, has in some countries been broken down, and by which in this country also it has for some time been vehemently assailed. It may be traced to the infidel philosophy of last century, as it finds ready support in all the socialism of the present.

Let us review the argument for a moment. On what grounds do men depend for their security in contracting such marriages? Are they so well assured of the correct translation of Lev. xviii. 18, in our English Bibles? Have they no lingering doubt, such as (at least) the translators indicated upon the margin? Are they quite prepared to show that the marginal reading is incorrect? Or, if so, are they prepared to take a step so important upon the strength of a mere constructive interpretation of a single verse, whilst yet they discard every sort of inferences from express prohibitions, and hold, like Shylock, by the written words? Are they able to prove that the law in Leviticus is one by which they are not bound; and this, although it leaves the world without a law of incest now, except such as may be made out by the light of nature? Are they of opinion that affinity is of little or no consequence, or that it terminates as to a wife's kindred when the wife dies; and therefore prepared to marry the sister or niece of a deceased wife, on grounds which would equally justify marriage with her mother or her daughter? Are they philosophers who have searched into the reasons of the Levitical law, and found that it was *merely* intended to preserve

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a proper subordination in families, and the rightful authority of aunts over their nephews, and husbands over their wives? And are they willing to incur all the risk upon the strength of this theory? On what flimsy threads does their conclusion hang! In a matter of a few pounds sterling, most men would seek some surer ground of procedure. Yet men, described as religious, and moral, and respectable, have been found to adventure in this matter upon such grounds as these—the danger before them, in case of error, being that of incest—its guilt, its filthiness, and all its further consequences.

These are the words of our Lord:—"If any man will do his will, he shall know of the doctrine whether it be of God." But how can they be regarded as conscientious doers of the will of God, who proceed upon such slight grounds, and notwithstanding such grave perils? It is not wonderful that they should be left to themselves, when light and guidance from above are eminently requisite.

A certain commiseration must, indeed, be extended to those unhappy persons, who, blinded by their own passions, and blinded by the perverse reasonings of those who should have led them in a straight path, and have actually led them into the ditch, have contracted marriages (so called) with the sisters and nieces of their deceased wives. But the conduct of ministers of the gospel who countenance or recommend such marriages, is worthy of severest censure. It is painful to find, in the Report of the Marriage Commissioners, too conclusive evidence that no very small number, both of the Established and of the Dissenting ministers of England, look upon such marriages with approbation. A minister of the Free Church of Scotland may be allowed to say, that it is to him particularly painful to contrast the views expressed by certain Evangelical and Nonconformist ministers with those expressed by Dr Pusey, in the first part of his evidence, concerning the obligation of the Levitical law,—although afterwards he proceeded to empty out an enormous load of lumber,—to find that he, not they, is the advocate of the just authority of the Old Testament Scripture. The cause of Evangelism within the Establishment, or that of Evangelical Nonconformity in England, is placed at most grievous disadvantage under such circumstances. How different the position of these gentlemen from that of the Puritans who framed the Westminster Confession, or from that of the old Evangelical fathers of the Church of England! But however this may be, they, and others who in any way have given the weight and influence of their names to the present movement, are surely under the strongest obligation to come forward with something more than their names—their opinions, and their assertions. A Scripture argument is eminently requisite upon their side; and they are bound, by every moral obligation, to come forward and exhibit it, or, if they cannot, to retract the opinions which, to the danger of morality and religion, they have hastily advanced. And if one man more than another may be singled out, it is the Rev.

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Francis Close of Cheltenham, a gentleman who is not unaccustomed to appear before the public, who is deservedly honoured for the part he has taken in other things affecting the cause of Christ, whose name is perhaps likely to have more weight and influence than that of any other of his class who have expressed their opinions as he has done, and whose opinion concerning the purport of the divine law has been expressed strongly and clearly without a shadow of evidence, or the semblance of an argument in its support.*

The advocates of the measure now proposed are fond of an argument which appeals to the tender feelings in favour of motherless children. That they set high value on the argument is obvious,—that it has served their purpose, with no inconsiderable number of persons, better than all their other arguments put together, may be very readily believed. It is also very manifest, and the Report of the Marriage Commissioners shows it in almost every second page, that it is the common pretence made by widowers with families who wish to marry their sisters-in-law. That it is as much the reason in reality as it is the reason alleged, is not likely to be the opinion of many, except those who are as anxious to make out a case in favour of such marriages as any of these widowers themselves. It ought not, however, to be forgotten, that according to the state of opinion and feeling prevalent from time immemorial in Scotland, and which would soon be equally prevalent in England under the present state of the law, if ministers of religion were not themselves the causes of distraction, the children whose mother has just been removed by death, naturally enjoy, at least for a time, all the benefit of the affection and care of their mother's sister or niece. And if scandal is apt to arise in England, as some allege, where the parties thus reside in one house, and remain unmarried, the reason may be sought in the undecided hesitating tone with which ministers of the gospel express themselves concerning the Scripture prohibition, the opinions unhappily expressed by some in favour of such marriages, and the known opinions, or it may be the known character, of the parties themselves. It is impossible to believe that these marriages have occurred so exclusively amongst the most religious, moral, and respectable of the middle classes of society, as the evidence of the agents employed to investigate the operation of the law of marriage in this particular would make it appear. No one can read the evidence without remarking how, in almost every successive instance mentioned by the witnesses, the same sort of certificate of character is given to the parties; and by and by one reads it without astonishment when given in cases which assume the form of concubinage, and not of marriage. Amongst the poor it is represented as almost inevitable that the connection should take place, whichever form it may assume; and the argument concerning the motherless children is thus put forward, with reference to the poor, by the Commissioners

* See his Letter to Mr Thorburn. Report, &c., p. 14.

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themselves in their Report, which here, as indeed in its whole tenor throughout, appears to be little else than a piece of special pleading.

"Among the poorer classes of society," they say, "we believe that, in a great majority of cases, where the sister of the deceased wife becomes an inmate of the house, and the parties are not advanced in age, the end of such a state of things is marriage or concubinage. The constant and familiar intercourse, the want of separate accommodation, and the entire privacy, give rise to feelings which, in the ordinary course of things, naturally will produce the consequences which we have stated. When a poor man with a family has the misfortune to lose his wife, some assistance for his domestic concerns becomes indispensable, assistance, too, for which he cannot afford to pay, and which must be rendered immediately. All circumstances and all feelings point to the sister of the deceased wife; and when once she becomes a permanent inmate, the result, in this class, is almost inevitable—cohabitation with or without the form of marriage."

This exhibits a fearful state of things, if real. But that it describes the reality, however firmly believed by the Commissioners, was not made out by any evidence laid before them, vague and general statements being almost all that they had concerning the poorer classes of society. In Scotland it could only be held to apply to society in those depths in which religion and morality no longer survive, and in which the intercourse of the sexes is almost promiscuous. Nor can it relate to a state of society any where, which, in a moral or religious point of view, is much superior to that of the worst *wynds* of Glasgow or Edinburgh. Amongst the religious and moral poor of Scotland, still a numerous class, nothing of the kind which the Commissioners depict is known, although their dwellings are certainly not larger nor more convenient than those of the labouring poor of England. The difference, if so great a difference there be,—which I must refuse to believe until farther evidence,—is manifestly to be regarded as one of religion and morality; and the evil which the Commissioners deplore would be more effectually remedied by an endeavour to introduce a little more of the leaven of the gospel, than by the legalization of connections which human law is represented as insufficient to prevent, but which it has been found that a proper recognition of the divine law has so effectually prevented.

But to return to the argument concerning the welfare of the motherless children. It is certain that in Scotland the sister or niece of a deceased wife, readily enough, if all other circumstances permit, assumes the charge of the bereaved family. It is equally certain that the same arrangement is frequent also in England, and without the censure of society. And are all these arrangements to be broken up? for broken up they must be, if Mr Wortley and his friends prevail in not only changing the law of the country, but in modifying to any considerable extent the general opinion of the people, and persuading any considerable number of Christians to adopt their new interpretation of the law of God. For what young woman who valued her character, would remain in the house of a man, not very

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unequal in years, to whom she was bound by no tie of kindred, or by no such tie of kindred as precludes the idea of marriage, superintending his domestic affairs—taking a maternal charge of his children—necessarily associated in terms of the greatest intimacy and familiarity with himself? Is there nothing unpleasant in the idea of an offer of marriage made under such circumstances? Is there no danger that marriage might often be hurried on for the prevention of disgrace? Would not the apprehension of such possibilities compel every virtuous and modest woman to flee from such a position? or, if she apprehended no such danger herself, could she be indifferent to the general whisper and censure of society? Who would wish his daughter to occupy the position of governess in the house of a widower, whose family consisted only of himself and two or three young children? Yet is it not obvious that the position of a deceased wife's sister or niece in such a household would be incalculably more dangerous, and therefore more liable to suspicion, and every way more untenable—one from which a young woman would inevitably be driven, if she did not enjoy the protection of a shrine which even libertinism seldom ventures to profane—if she did not find herself within a pale which Heaven has planted to secure domestic purity and domestic peace? She cannot be in that household merely as a governess might be. The case is either rendered *better* by *relationship*, so as to be *free from all that is objectionable*, or it is rendered incalculably *worse* by the fact of the *previous relationship*—the intimacy subsisting through previous years—the fellowship in bereavement and sorrow—the community of affection for the children—the affection which had grown up between the parties themselves before marriage had become a thing which they could lawfully contemplate. Now, let it be asked, Is it a light thing to propose a change which, if thoroughly accomplished, would compel every sister or niece of a deceased wife to withdraw herself from the house of her sister's or her aunt's former husband, leaving his children to whatever might await them, unless her continuance there were immediately sanctioned by marriage—marriage, however, being by her or by him perhaps still regarded as under Divine prohibition—and not only to withdraw from residence under his roof, but to abstain from frequency and familiarity of visiting, such as would not be permitted to any other female friend or acquaintance? Would there be no cruelty in this compulsion? The appeal to the feelings may be made, it would seem, upon both sides. Would there be no cruelty in compelling this separation of those who have been accustomed to live in one home, in the simplicity of their hearts, as brothers and sisters, regarding one another with strong affection, but with no other sentiment than brothers or sisters might entertain—no cruelty towards the children once bereaved already, and whom Mr Wortley's triumph would now a second time bereave? But they may prevent this by marriage. Why, then, is there no cruelty in compelling persons to marry contrary to their own inclination and desire, even

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if conscientious convictions were out of the question? And what if one of these persons were already engaged to another? Her promise is not to be broken. Or, if she were engaged in affection merely, would there be no cruelty in compelling her to renounce for ever her own hopes, and wishes, and affection, for the sake of her aunt's or sister's children? Would it be a light thing even to necessitate the struggle betwixt the one affection and the other? This, Mr Wortley, however, must be held prepared to do for all the nation at once. It may be doubted whether, if he should prevail—not merely obtaining the consent of the Legislature to his Bill, which surely is not all that he desires, but obtaining the general consent of the general mind of the country—it would even be possible for any such intimacy to subsist as has commonly subsisted hitherto betwixt married men and the sisters or nieces of their living wives; whether the same confidence of innocency could attend it as hitherto, if the supposition might arise in the minds of the parties, that by a possible change of circumstances they might yet become husband and wife; nay, that their becoming so was a thing always of considerable probability, and to which every illness of their common dear relative gave additional probability; and whether it would be possible for orphan girls to find a home in the house of their aunt's or their sister's husband, and in him a protector, supplying to them the want of an uncle, an elder brother, or a father. The magnitude and gravity of the change proposed have been little considered as yet by the public, or a storm of indignation would compel the majority of the House of Commons to repent of the vote which they gave in favour of the principle of Mr Wortley's Bill.

Another question suggests itself, to which it would seem desirable that Mr Stuart Wortley and those of his party should favour the world with an answer. It relates to the period that ought to elapse after a wife's death, before the marriage with her sister takes place. It is an important practical question, and closely connected with the argument of tenderness concerning the motherless children. Is common feeling to be outraged by the marriage ceremony in the chamber of death? Is it to take place before the funeral? The evidence printed by the Royal Commission shows that those persons who have formed connections with the sisters of their wives, have sometimes entertained the idea before their wives were yet dead: and, if the state of the law were what Mr Wortley proposes to make it, the idea would not only of course be more frequently entertained, but would force itself upon the minds of persons most unwilling to entertain it. But if a decent interval is still to elapse before a new marriage shall be contracted, what is to become of the motherless children at that very time of their greatest destitution, in those cases in which their father has no sister or niece, or other near relative by consanguinity, whom he may bring into his house to undertake the charge? For as to the deceased wife's sister or niece, prudence and decency require her to be gone.

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It would be a curious, though a most disgusting subject of statistical inquiry, in how many of those cases in which marriage with a deceased wife's sister or niece has been contracted in defiance of all law, the interval after her death was shorter than is commonly accounted decent, and in how many of them marriage is known to have been preceded by what even Mr Wortley's Bill would not legalize. Of course the gentlemen who dressed up the case for the Royal Commission, took care not to present instances of this kind very prominently, or to bring up such parties as witnesses; but enough transpired, especially in course of the examination of clerical witnesses, to make it very plain that the cases more prominently brought forward were skilfully chosen from amongst those least likely to shock and offend the public.

But if this Bill should become law, scenes will be enacted such as hitherto have never entered into the imaginations of the greater number of persons. The scenes around the death-bed will often be of a remarkable character; and I may be allowed to say, that there is, to my judgment, a certain hideousness in that character, which suggests the thought, that it would have been better if even to the imagination such scenes were never to have been present. When a group of young sisters are watching the lingering progress of disease, their sister's husband will no longer be amongst them merely as a brother. When death has done his work, other changes have been always sure to follow; but these changes will no longer be such as upon similar events they have hitherto usually been. There will be separations such as hitherto have seldom been thought requisite, except in quarters where the moral feeling is low, and the atmosphere polluted with libertinism; and unions will also follow under circumstances very new and peculiar. The weeds of woe being laid aside, for whatever length of time they may have been worn, the company are again assembled for a marriage. It takes place exactly where a former marriage took place. Great part of the persons present are the same;—the bridegroom is the same—a little older indeed, but not much changed in appearance, since he presented himself there a year or two ago with another bride. The bride was present also at that former marriage; it was her sister's marriage, and she was her sister's bridesmaid. Another sister attends her now in the same capacity; and there is no one present, not even the bridegroom or the bride, who can quite exclude the thought, that in a few years more it is perfectly possible that a similar occasion may again bring together many of that bridal party, and that she who is now the bridesmaid may be then the bride. Cases have already occurred of a man's having three sisters in succession. There are marriage festivities—for the progress of revolution is not likely to put an end to these—and friends who were present at the former marriage indulge their humour in some of the same jokes, and tell over again in the same apartment, or around the same table, a certain number of the same stories. There may be a marriage jaunt or not; but by and

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by the newly-married couple reach their home. It is a home with which they have been almost equally familiar in days that are past. Yes, this young wife has come to take possession of what was lately her sister's home. The train of thought is hateful, and not pursued of choice; but Mr Wortley and his associates make it necessary. Every reader, however, may easily pursue it farther for himself. Ideas arise which to many must be utterly revolting. Not so, however, it would seem, to Mr Wortley, and to a large number of the representatives of the British people in the British House of Commons. Not so to certain bishops, rural deans and surrogates, vicars, rectors, and curates of the Church of England, who have favoured the world with their opinions: nor to certain Dissenting ministers of different denominations who have done likewise. No doubt, these persons have thought over the subject. No doubt, they have pursued all these very natural and obvious trains of reflection to their natural and obvious lengths, and they have found them not disgusting in the least. And, as the result of their meditations, they have come forward to announce their opinion, that marriages with deceased wives' sisters are marriages of a most commendable description. They have placed themselves before the Christian public of this country in a position from which, if the feelings of Christian men and women were once fairly aroused with reference to this subject, they may be glad to resile.

It would swell the size of this pamphlet too much, to animadvert upon the probability of conflicts arising in consequence of Mr Wortley's Bill, should it become law, betwixt the civil courts and the churches, either established or non-established, and upon the insufficiency of the provision proposed for their prevention. But reference may be made to the probability—the certainty indeed—of another effect. It is impossible for legislation to change at once the opinions and feelings of a nation or community. Yet it may be taken for granted that the marriages which Mr Wortley now seeks to legalize, would become much more frequent under the operation of his Bill. Diversity of opinion would exist concerning the parties who contracted them: some would associate with them as before; others would refuse to do so—society would be divided—heartburnings, alienations, and distractions would arise, greater than the causes hitherto generally operating are sufficient to produce. For the diversity of opinion would be very extreme; some regarding these marriages as highly commendable, and others looking upon them (notwithstanding all the sanction of human law) as fearful violations of the law of God, and connections filthier than adultery or concubinage. The prospect is any thing but pleasing.

There is no great importance to be attached to the consideration, twice advanced by the Marriage Commissioners in their Report, that where such connections have taken place, relatives and friends have at length been led to express their approval. Near relatives are by no means to be regarded as disinterested judges in such a case; they

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obviously lie under the strongest inducements to throw the screen of their protection around the parties, and to uphold them as far as possible in their station in society, from which there was evidence enough before the Commissioners to show, that such marriages have sometimes at least occasioned a woful descent.

But the argument derived from the social aspects of this question, however important, is merely subordinate to the scriptural or theological. Recurring now to this, I express a sentiment entertained by very many Christians, and continually deepening by all their reflections on the subject; that this nation would incur a fearful danger of Divine displeasure by the enactment of a law which might be described as an attempt to abrogate one of the laws of God. Infidelity has always been accustomed to scoff at the mention of God's wrath and of God's judgments. But the Bible must be altogether flung aside ere the belief can be renounced, that God so orders his providence as to inflict terrible judgment upon presumptuous despisers of his law. Not only the Jews, his peculiar people, were often chastised for their transgressions, and remain at this hour a monument at once of his righteous severity and of his ever-enduring faithfulness, but the sacred Scriptures tell us of other nations likewise upon which his vengeance has been poured; and to this cause no Christian can hesitate to ascribe the desolation of cities and the ruin of empires. Is the character of God's providence changed? or does he now conduct it upon other principles than those which he has been so careful to exhibit before us in his Word? Indeed, there is a presumption of which men are sometimes guilty, in speaking with too much familiarity of providence and of judgments; but there is, on the other hand, a presumption more daringly presumptuous, in setting aside the idea of divine interposition to check or chastise the wickedness of men. It is possible to be rash in pronouncing upon the causes of God's controversy with a people whom he afflicts with unwonted visitations of war, of famine, or of pestilence; but it is a rashness at least as reprehensible to take for granted that God has no controversy with that people at all, and that these calamities would have fallen upon them, quite as certainly and quite as heavily, if they had been careful in the utmost degree to conform all their laws, institutions, and practices to the law of God. Wisdom and piety will adopt the language of the prophet, "Let us search and try our ways, and turn again to the Lord."

This aspect of the proposed change of our law, appears all the more terrible in consequence of the calamities and distresses with which we have recently been visited. It would seem like infatuation, an infatuation which might itself be reckoned judicial, to add another to the catalogue of our national sins; legalizing and encouraging what God has pronounced abominable.

Nor ought our apprehensions to be diminished by the reflection, that even if God were to refrain from any extraordinary visitations, such as arouse attention and compel the recognition of his hand,

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there is a natural connection betwixt vice and misery; so that when the law of God is transgressed, the transgression generally involves painful consequences even in this world. It is a miserably superficial philosophy which dissociates the operation of secondary causes and natural laws from the will and moral attributes of Him who gave being to them all. And when the legalization of incestuous marriages is in question, it ought to be remembered how the too abundant experience of mankind has demonstrated, that uncleanness is, more generally and certainly than almost any other kind of sin, attended with ruinous consequences to individuals and communities; its prevalence deepening the degradation from which it springs. There is no need to expatiate on the vast train of evils which appear intended to show how God hates it. But surely it behoves the legislators and the people of this country to remember, that human legislation can never alter the boundaries which he has placed between virtue and vice; and that all the power of a thousand Acts of Parliament can never diminish the malignant efficacy of a single crime.

There are many things connected with the present movement which are well worthy of attention. Some of these things can as yet be only very imperfectly known. There will be strange revelations of secret history at some future period, when letters and journals come to be published, and the means shall be divulged which were used to obtain valuable support to the odious measure,—when it shall no longer be any secret who composed the little interested party which employed Messrs Crowder and Maynard as its agents, and furnished them with the large sums which they must have employed in paying the numerous staff of professional gentlemen whom they employed in prosecuting their inquiries. It may yet be known, although at present it can only be imperfectly guessed, why their money was so unsparingly told out: and curiosity may even be gratified as to the whole variety of ways in which the money was applied, and the effects which it produced.

Did not time and space fail, however, some remarks ought here to be made upon what is sufficiently well known as to the history of the movement;—but it may be sufficient to allude to the facts of the motion made by Mr Stuart Wortley in the House of Commons, —the consequent appointment of a Royal Commission, in which the name of Mr Stuart Wortley is the second that occurs, to inquire into the state and operation of the law of marriage, as relating to the prohibited degrees of affinity, and to marriages solemnized abroad or in the British colonies,—the proceedings of the Commission, directed exclusively to the point to which Mr Wortley's present Bill relates,—the examination of Mr Crowder as a witness, and of the gentlemen whose services Messrs Crowder and Maynard had secured for their investigations,—the presentation of a Report founded upon evidence, of which the greater part has all the appearance of having been adduced by Messrs Crowder and Maynard, as agents for their

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unknown clients, and which, taken as a whole, proves that the Commission has done little else than listen to the case which these gentlemen had prepared,—and the introduction into the House of Commons, without loss of time, of the Bill with which Mr Wortley's name is now connected. The whole history suggests unpleasant reflections; and the proceedings of the Commission have received in Parliament, and in print, some portion of the reprehension which they merit.

All this must now be passed over, although the Report of the Commission, with the Minutes of Evidence, present a fertile theme, far from being exhausted by all that has yet been written and spoken upon it. The Lord Advocate's evidence before the Commission is worthy of particular examination. His proceedings as a commissioner, and as a member of Parliament, deserve the attention of his constituents and of his country.

But, passing all these things, I cannot conclude without expressing the strongest conviction, that if the movement now made should prove successful, it will not cease with the acomplishment of the change now proposed. It has not been so in America; where it began as here, with this difference, that cases of marriage with the widows of deceased brothers were forced upon public attention, even before those of marriage with the sisters of deceased wives.* It has not been so in Prussia, where marriage with the sister of a deceased wife is very common, and is reckoned peculiarly commendable. Other relationships of affinity soon come to be regarded in the same way, upon the same principles; and some of these principles are equally applicable to relationships of consanguinity, with regard to which Mr Wortley's Bill would leave the law untouched. The preamble of the Bill is well calculated to create the apprehension, that the enactments which he proposes would soon be followed by others. And, however sincere he may be in professing his resolution to go no farther, it is not easy to see upon what principle he can take his stand at this particular point. There are probably few instances of such singular conscientiousness as that of Colonel Thompson, who has long been a busy agitator on the subject of marriage with a deceased wife's sister; but who got up, when the House of Commons was just coming to a vote on the second reading of Mr Wortley's Bill, to crave "one minute for a case of conscience," and to say that "he was very anxious to support the Bill so far as related to marriage with a deceased wife's sister; but he could only vote for the second reading on the understanding, that if the passages relating to marriage with a deceased wife's niece were not expunged in committee, he must vote against the third reading!!" Most people will think that if the question as to marriage with a deceased wife's sister were settled as Colonel Thompson desires, that as to marriage with a deceased wife's niece would be carried by an *à fortiori* argument, in the way

* M'Iver on the "Unlawfulness of a Man's Marriage with his Sister by Affinity." (Philadelphia, 1842.)

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to which it seems his conscience objects. But the sanction of the Legislature might soon be sought for marriage betwixt uncles and their own nieces, which is not uncommon in Germany, nor unknown in America; and which has also the most perfect approbation of Jeremy Taylor, in that work of so high authority, the "Doctor Dubitantium."

In conclusion, may I be permitted to urge upon the attention of my brethren in the ministry of the gospel, whether belonging to the Free Church of Scotland or to other Churches, the great importance of this subject? It is too manifest that sad effects have resulted already in England from the erroneous opinions uttered regarding it by ministers who have not attempted as yet to defend their opinions, by entering, as it behoves them to do, into the scriptural argument. In America, likewise, the ignorance prevailing as to questions of this nature, when cases first began to come before the courts of the Presbyterian Church, gave an advantage to error which it has not yet lost. Respectfully, therefore, and earnestly, would I entreat ministers and others to consider that this is no time for indifference or supineness. *Pro aris et focis!* The community must be aroused to a sense of danger; even the female part of it must be excited to take an interest in a question which concerns the social position of the female sex in general, and to resist a movement which, if successful, would result in much degradation of woman, by destroying the sanctuary within which her purity was safe, and her delicacy and her affections were held honourable. Mr Wortley and his friends have not scrupled to say that the voice of the women of this country is on their side. Lamentable exceptions there may be, and circles of society there no doubt are, in which the atmosphere is vitiated and all minds are sophisticated; but no denial of the general statement can be too emphatic. And surely this is a subject in reference to which the conduct of Members of Parliament ought to be carefully considered by their constituents. The responsibility, especially under a form of government such as ours, does not rest with legislators merely. And this question is one whose importance ought to counterbalance all merely political considerations. It were a noble testimony, both of the sense which the people of Scotland have of the importance of this question, and of their general preference of questions involving religion to those involving mere secular interests, if, because of their conduct in regard to this, members of the most opposite political views were ejected from their seats in Parliament. No local interests—no ordinary political interests—can be compared with those which are now at stake.

Nor will the influence of the decision to which this nation comes be confined to its own multitudes. It will extend over the earth. It will strengthen or weaken the hands of those who maintain the integrity of God's law in America; it will strengthen or weaken the hands of those who have abrogated much of that law, and seem bent upon abrogating more of it. It will arouse to thought and to exertion

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the truly Christian party in Germany, or it will repress all their energies. It is a question of social demoralization and destruction, or of social conservation and regeneration, not for Britain only, but for the world. It is a question of domestic life and its comforts, its most refined affections and its exquisite charities; of sensuality and its grossness, its suspicions, alienations, embarrassments, and anxieties. It is a question of the favour of God and of the wrath of God; of the blessing which brings prosperity, and of the judgments which fill at once a whole sinful land with amazement and woe. God forbid that our legislators should be like Jeroboam the son of Nebat, who made Israel to sin; or that a people who have virtually the making of their own laws, should forget their responsibility to the great Law-giver and Lord of all!

December 19, 1849.

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POSTSCRIPT.

SINCE this Pamphlet was put into the publishers' hands, there has appeared in the January Number of *Frazer's Magazine*, an article in support of Mr Wortley's Bill, which we are told in the first sentence "will of course be introduced again." The author adopts some of those views and arguments, which, in attempting to refute them, I have expressed in the words of American writers. I would have preferred, at least in some instances, to have quoted them from him, had his article been published a month earlier. As it is, all that I can at present do, is very briefly to notice what seems most worthy of attention, or what he most presses upon the attention of his readers. There is very little that is new or original; but there is an air of plausibility and candour about the whole, although a sneer at the "theatricals" of Exeter Hall betrays more perhaps than the author intended to reveal. Considering the influence which an article in *Frazer's Magazine* may exercise, I trust to have an early opportunity of animadverting more particularly, both upon the views and arguments exhibited. At present I limit myself to a very few remarks.

It is to be observed that great part of the article is devoted to matters which do not affect the real merits of the question. It may be very interesting to inquire into the history of English legislation upon this point, but it is not by such inquiries that we are to determine what the law ought to be; nor will any good reason for or against Mr Wortley's Bill be found by any examination of the canons of the Church of England, and the authority by which they were framed.

It is remarkable how quietly this writer takes for granted or insinuates the Popish origin of the prohibition for the removal of which he pleads. It is remarkable also how little importance he seems to attach to the statement of Basil, which surely did not escape his eye, as to the custom of his time: a custom of which that father plainly speaks as immemorial, and handed down from times preceding; whilst he exults in the idea that Basil "does not venture to call it an apostolic tradition, which," he says, "we may be pretty sure he would, if he could have done so without the risk of being contradicted." (He speaks of Basil as one would speak of a known rascal.) However, he overlooks what in this connection should be reckoned one of the most important things of all—that Basil refers to the Scriptures, and argues, whether well or ill, upon their authority. What is scriptural is apostolic, what is unscriptural is unapostolic.

In the Scripture argument it is not easy to follow this writer. He declines to discuss the question of the permanence of the Mosaic law; yet sometimes he seems to admit the authority of its prohibitions. Apparently he falls back upon the law of Nature; yet it would have been well if he had told us more plainly how we were to decide upon the limits and requirements of the law of Nature, and how to know what prohibitions set down by Moses, amongst others of a merely positive character, have its sanction, and are therefore perpetually binding. But this subject has been already considered in this pamphlet. (See p. 28.)

Great use is made of an objection already noticed from the law of Deut. xxv. 5, and great use also of the argument from the want of an

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express prohibition: although upon this point it is particularly difficult to follow the argument, as the author seems to feel himself involved in its absurdities—(he is fond of that word, although he greatly dislikes any thing more *ferocious* and *maledictory*)—and admits the legitimacy of inferential reasoning, without seeming to perceive the importance of that admission, or the necessity of laying down any rule to discriminate betwixt the cases in which inferential reasoning is allowable, and those in which it is not.

Notice is taken of the marginal rendering of Lev. xviii. 18. It is pleasant to see that the frequently repeated reference to this rendering, both in Parliament and out of Parliament, has made it less easy than it once was for those who overlook it to regard it with dislike. Very little, however, is said about it, and it is evident that more effort is yet needed to secure for it the attention to which it is entitled. We are told that because Dr Pusey will not give to it his sanction, or even express a doubt respecting the correctness of the common translation, we may dismiss the Karaite interpretation; "it is hardly too much to say that it is conclusive against this hypothesis"!!! What follows upon this subject is worth quoting:—

"But we shall not content ourselves with that, or with the statement that other Hebrew scholars on the same side admit that the marginal translation cannot be defended; but we shall show why it cannot. It is not pretended that in the other passages, where the word is rendered 'another' which is here rendered 'sister,' 'another' is the *translation* or primary meaning of the word, but that it is the figurative or secondary meaning, 'sister' being the translation. The passages referred to are, Ex. xxvi. 3, 5, 6, 17; and Ez. i. 9, 23; iii. 13. For instance, in the first of them, 'the five curtains shall be coupled together, each one to her *sister*,' is the strict translation, but 'each one to the other' is the meaning. And it requires no knowledge of Hebrew to perceive, that the principle which justifies the substitution of the word 'another' in all these passages is, that the meaning is not *an* other but *the* other, or rather that, according to our common way of speaking, we might use the compound word *one-another*. And it is equally easy to perceive, that this principle does not justify, or rather that it is not possible to make, a similar change in the words, 'thou shalt not take a wife to her sister.'"

And this is all that is said upon this subject. Does the reader observe how miserable a statement is here made of the argument which it is pretended to refute?—no reference to the masculine form of the phrase, and its more frequent occurrence—no reference to similar phrases, or to cognate dialects. The concluding part of the quotation looks like a rude attempt to give expression to some such idea as that already considered at page 13 of this pamphlet.

It is curious to find this author taking us all to task for not paying sufficient respect to the Jews, and these men of wisdom, their Rabbis. Thus—

"But if these anti-Jewish theologians insist on our learning our duty from the law of Moses, it does not seem very unreasonable to inquire how that law was understood, in a case of nothing more than inference at the best, by those to whom it was given, and who must have understood it better than we can guess it."

This is absurd enough, but not nearly equal to what occurs in another place, where it is announced as evident, that this of marrying a wife's sister could not have been intended to have been even temporarily prohibited in the apostolic letter in Acts xv., "because the reason of the apostles' writing that letter was merely that the Jews were offended at the Christians disregarding the Mosaic precepts; and the Jews themselves, as Dr Pusey and their own chief Rabbi tell us, did not believe this

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